

# REPORT



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STRENGTHENING  
CIVILIAN OVERSIGHT OF  
INTERNAL SECURITY FORCES  
PROJECT PHASE III

## Strategic Plan for the improvement of parliamentary oversight on Internal Security Forces (ISFs) in Turkey

*Prepared by Paul Ponsaers & Omer  
Faruk Genckaya*



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## Executive Summary

This Strategic Plan is part of the “Strengthening the Civilian Oversight of Internal Security Forces Phase III Project (CO III)” Project under the technical assistance of the UNDP. The project is addressing parliamentary oversight on ISF’s in Turkey, consequently the report is directed to the Turkish Chairperson of Parliament, the Grand National Assembly of Turkey (GNAT).

It is obvious that most Parliaments in the world function not only in relation to the oversight role they have on ISFs. Parliaments have “Rules of Procedure” (RoP), parliamentary Committees and a multitude of other instruments to exercise their powers. Only a fraction of these instruments are specific for the oversight on Internal Security Forces (ISFs), most of them have a broader application. For this reason, it is not realistic to narrow this Strategic Plan to parliamentary oversight on ISFs. This is the reason we include *also* broader issues, without losing the focus on ISFs.

In this report the experts of the CO III Project assisted the development of a number of Strategic and Operational Objectives, subsequently a number of Projects and Processes, which resulted out of the work done by a number of (inter-) national experts, virtual interviews and a workshop we organized to test a former set of objectives. The actual set seems to be a good balance between a *pragmatic* and an *idealistic* view on the subject, although the implementation of some of the objectives will be more obvious than of other.

The report describes the context in which the project is embedded and deals with the Mission, Vision and Values of Parliaments. The core of the text points to the recommended Strategic Objectives (SOs) that resulted out of the process of consultation that the expert group went through, bearing in mind that this Strategic Plan has to be anchored in the cultural, structural, constitutional and political structure of Turkish Parliament.

The five recommended SOs focus on: (1) the improvement of the participatory capacity of Parliament; (2) the establishment of an effective parliamentary oversight on ISFs; (3) the strengthening of budgetary oversight; (4) the relationship between Parliament and the Executive; and (5) the (re-)organization of the structure of parliamentary committees.

Recommendations are subject to review and approval of the Parliament.



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## List of Abbreviation/Acronyms

CBO	Congressional Budget Office (USA)
CO III Project	Strengthening the Civilian Oversight of Internal Security Forces Phase III Project
CSOs	Civil Society Organizations
EO	European Ombudsman
EU	European Union
GNAT	Grand National Assembly of Turkey
ISFs	Internal Security Forces
LEC	Law Enforcement Oversight Commission
MPs	Members of Parliament
NCTV	National Coordinator for Terrorism and Security (The Netherlands)
OOs	Operational Objectives
PBO	Parliamentary Budget Office (Australia)
PPs	Projects & Processes
RoP	Rules of Procedure
SOs	Strategic Objectives
SPAO	GNAT's Administrative Organization
TAC	The Turkish Ombudsman Institution
TCA	Turkish Court of Audit
UDHR	Universal Declaration of Human Rights





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## 1. The context

This Strategic Plan is part of the “Strengthening the Civilian Oversight of Internal Security Forces Phase III Project (CO III)” Project under the technical assistance of the UNDP. The consequence is that *The Universal Declaration of Human Rights* (UDHR) is the central guideline, celebrating these human rights and freedoms, humanity, democracy and security.

It is essential to comprehend that Parliament is in charge for the development of legislation, guidelines & policies and priority-setting in line with these principles, which are laid down and protected in the constitutions of most States (e.g. the right to life, respect for human dignity and non-discrimination, the prohibition of torture, the presumption of innocence and other fair trials principles, the right to private property, freedom of movement and of association, etc.). Furthermore, Parliament is also in charge of controlling/evaluating and oversight of the budgets allocated to the Executive, which make it possible for the Executive to implement and regulate according to these principles.

These provisions set limits on the action of public authorities in their exercise of coercive powers and also provide parameters for complaints against abuse of power by ISFs. Most Parliaments produced a specific police act, a criminal code and a criminal procedures code establishing the actions ISFs may take when investigating crime, and sometimes have additional security legislation. Usually, the provisions of all these instruments are rendered as instructions on how the police should carry out their functions and how they can use their powers.

The project is addressing parliamentary oversight on ISFs in Turkey, consequently the report is directed to the GNAT.

Oversight on ISFs is in most States a mixed effort. As well the Executive, the Judiciary and the Legislature have an important and specific role in this common endeavour. In this project we focus on the role of the Parliament, but we should bear in mind that oversight is always a shared responsibility and cannot be reduced to any sole actor.

Oversight is a general and broad ambition of Parliament, not only on ISFs. In almost all domains of society Parliament is interfering and has to assure this function. But oversight of ISFs is special, as the organizations involved have important powers and competences that trespass largely these of other institutions in society (the use of legal force). This capability



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should be used in a proportional way, considered democratic values, the rule of Law and Human Rights<sup>1</sup>.

Moreover, the central idea is that the Strategic Plan has to be anchored in the cultural, structural, constitutional and political structure of Turkish Parliament. Ultimately, it is of course up to the Turkish Parliament itself to determine the role of Parliament in the oversight of ISFs.

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<sup>1</sup> See: Parliamentary Function of Oversight, <https://www.agora-parl.org/resources/aoe/parliamentary-function-oversight>



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## 2. The input for the Strategic Plan

A large number of experts was engaged in the preparation of this project. Two CO3 project reports were inspirational for this Strategic Plan:

- a) the project report *“Policy recommendations for Improvement of Parliamentary Oversight in Turkey”*, written by Fahri Bakirci and Ozge Genc Cakar.
- b) the project report *“Comparative study on good practices of parliamentary oversight of the ISFs in EU member states and recommendations”*, written by Markus Beilfuss, Fahri Bakirci, Paul Ponsaers, Thorsten Wetzling and Eric Toepfer.

A number of recommendations resulted out of this phase in the project.

It is obvious that most of the Parliaments function not only in relation to the oversight role they have on ISFs. Parliaments have a broader role to play in making public policy and they use “Rules of Procedure” (RoP), Parliamentary Committees and a multitude of other instruments to exercise their powers. Only a fraction of these instruments are specific for the oversight on ISFs, most of them have a broader application. For this reason it is not realistic to narrow this Strategic Plan to parliamentary oversight on ISFs. This is the reason we include *also* broader issues, without losing the focus on ISFs.

A draft version of this plan was discussed in a workshop on January 20 and 21, 2021. This workshop brought together a limited number of legislative experts, MPs and other relevant stakeholders, including academia and CSOs. After this workshop the authors of this plan reworked it in line with the outcome of the discussions during the workshop.

During a second workshop on March 10 and 11, 2021 the reworked strategic plan was discussed with a number of eminent academics and practitioners. After this second workshop the structure of the plan was not changed, because there seemed no reason to do this. Nevertheless, we used the information stemming from the discussions and the questionnaires which were send out to add a commentary in each section of this plan concerning the feasibility and the conditions in which the SOs can be reached. We have changed the sequence of treatment of each of the SOs according to this logic.

Meanwhile, in February 2021, the draft plan was also discussed with the members of the Committee of Interior Affairs, EU Harmonization Committee and Human Rights Investigation Committee as well as a number of current and former MPs in in depth interviews.



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Finally, the draft was reviewed by COIII Project's Parliamentary Oversight Experts Özge Genç, Fahri Bakırcı, and Frans Leeuw.



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### 3. The Mission, Vision and Values of Parliament

#### The Mission

The Mission is considered to determine the role of Parliament, in other words the Mission contains the definition of the role of Parliament, answering the “*What*” question.

In most States the role of Parliament is defined as:

- *Legislation*: Make good laws and amend existing laws;
- *Scrutiny*: Check and challenge the work of the Executive;
- *Debating*: Debate the important issues of the day;
- *Budget Control*: Check and approve Government spending;
- *Participation*: Parliamentary work is to be understood as a democratic process, through the participation of stakeholders from civil society.

#### The Vision

The Vision is considered to determine the way Parliament tries to accomplish its Mission, in other words the Vision answers the “*How*” question. While this is projected in the future, it has always a certain prospective function.

In most States this role is defined as:

- *Working Just, Fair & Impartial*: Treating everyone on an equal base, avoiding exclusion, guided by the rule of the Law;
- *Giving room to minority views*: Democratic treatment of all political groups, based on the principle of proportionality;
- *Working in a Transparent Way*: As well for other state bodies as for civil society, industry, etc.;
- *Working in a Participative Way*: Communicating, sharing and consulting citizens and other stakeholders;



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- *Evidence and Knowledge Based*: Being well informed, based on scientific research;
- *Learning from others*: Prepared to adapt and open to improvement, according the principles of a learning organization;
- *Assuring Integrity*: Honesty and uprightness are essential;
- *Budget Review*: Mechanisms have to be installed that can help realize that budgets are spent in an efficient and effective way.

## The Values

Values express the central values that permit to accomplish the Mission and the Vision. They determine the organizational culture of Parliament. They respond to the question “*Who are we*”?

Examples are:

- *Professional Excellence*: Doing the right things good. MPs and parliamentary personnel work together to provide effective, accountable and non-partisan support, and they act with integrity, in a manner that is responsible and ethical;
- *Respect for the democratic process*: MPs and parliamentary personnel believe in the importance of parliamentary institutions and the democratic process, and work to strengthen and foster respect for them;
- *Balancing continuity and change*: MPs and parliamentary personnel preserve the collective memory and ensure institutional continuity, supporting MPs as their roles evolve and the institution evolves with them; demonstrating openness and receptivity.



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## 4. The central Mission of Parliaments

Starting from the Mission of most Parliaments, we consider here the critical success factors which can be applied and are leading for the construction of Strategic and Operational Objectives for this Strategic Plan.

### Legislation

Another core Mission of Parliament is “Legislation”, in other words to produce laws and amend existing laws and doing this in a qualitative way.

This implies that Parliament disposes of an adequate infrastructure for the production of (legislative proposals) laws. Therefore, clear RoP are essential. This implies that all political groups can contribute to the establishment of adequate RoP, determining the RoP also for parliamentary (standing) committees.

#### Box 1: Comparative study on good practices of parliamentary oversight and the RoP

The comparative study on good practices of parliamentary oversight of the ISFs in EU member states (Spain, Belgium and Germany)<sup>2</sup> revealed that in all selected EU Member States, the RoP of the Parliaments set up the concrete rules of parliamentary oversight, both in terms of organization and tools. In these EU Member States, the RoP and its amendments are approved by the Parliaments and require a qualified majority vote. Spain and Belgium require an absolute majority (more than 50% of the number of seats regardless if they are present or not), because the rules are considered to be vital for the democratic functioning of the Parliament. In countries in which one party can reach the absolute majority easily the requirement of a higher qualified majority (2/3 or 3/5 of the seats) should be considered for the same purpose: to grant that the RoP are accepted by almost all political parties. This is a good practice, because it is coherent with the important role of Parliaments in democratic societies. It is also a European Standard that Rules of Procedure need to adapt to the current composition and circumstances of the Parliament. This is the reason why Rules of Procedure are adopted at the beginning of each term in Germany or are updated in each session (Belgium) or legislature (Spain). In Turkey,

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<sup>2</sup> See: *Comparative study on good practices of parliamentary oversight of the ISFs in EU member states and recommendations* (2020), written by Markus Beilfuss, Fahri Bakirci, Paul Ponsaers, Thorsten Wetzling and Eric Toepfer, 12-13.



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as in other Parliaments, according to the Constitution, each new Parliament must make its own RoP in the beginning of each session. However, in practice the amendments are usually made during the session as a result of amendment requests of the ruling parties.

The fact that Parliamentary Oversight is ruled by constitutional norms and Rules of Procedure, namely the fact that there is a legal Parliamentary Oversight regime, has another very important consequence in all EU Member States. The functioning of the Parliament and all its powers is based on normative criteria that need to be followed and cannot be restricted by decisions of the Presidency of the Parliament or even the majority of MPs as a general rule. Some parliamentary decisions may require a majority vote or may depend on decisions of the Presidency, the chairperson of a committee or parliamentary preparatory bodies if required by the RoP. However, it is European standard that parliamentary oversight is based on rights of individual MPs or parliamentary groups that do not necessarily support the Government and that these rights do not depend on the decision of the majority or the Presidency of the Parliament or the chairperson of a parliamentary committee. In fact, in most EU countries these rights can be challenged and protected at the Parliament itself and, eventually, at the Constitutional Court like in Spain and Germany.

The legal regime of Parliamentary Oversight in Turkey does not always follow all these standards and good practices related to the role and content of the RoP. Indeed, the RoP of the GNAT set up the detailed regulation of written questions, general debates, parliamentary inquiries, parliamentary investigations and the right of petition. These rules have been amended twice since the Constitutional Reform of 2017. However, these Rules are not completely aligned with all constitutional provisions and the new presidential system and therefore need to be updated. According to the Turkish legal system, the latter requires only the support of the majority of MPs and this is the reason why both amendments have been supported only by the leading majority of the GNAT. Taking into account that the RoP governs the functioning of a representative and plural institution as the GNAT, it seems reasonable to require more than 50% of the votes (absolute majority) for future amendments of the Rules of Procedure like in the case of Spain and Belgium.

\* \* \*

The production of new laws and amending existing ones needs to be realized in a *qualitative way*. Mostly this is guaranteed by means of an adequate organizational, research and expert capacity, also of the presence of legislative experts. This can and is done *ex post but also ex ante*. The Regulatory Impact Assessment (RIA), that is mentioned later in this document, is an example.





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## Box 2: International Examples of RIA

The OECD has produced many documents and country case studies on ex ante and ex post RIA's. A recent one discussed the Netherlands ex ante RIA (2020). Usually, these RIA's are carried out by line ministries that can and do hire consultants / experts / research organizations to do (a part of) the work.

By means of examples we mention here the UK and the Netherlands.

The UK Parliament has POST. POST is the *Parliamentary Office of Science and Technology*. POST helps bridge the gap between research and policy in the UK. It is a bicameral body, working for both the House of Commons and the House of Lords. It produces impartial, non-partisan, and peer-reviewed briefings, designed to make scientific research accessible to the UK Parliament. The briefings come in the form of POST-notes and POST-briefs. Beyond that, POST (1) Organises parliamentary horizon scanning activities; (2) Offers a range of services to Select Committees; (3) Trains the next generation of policy shapers through the POST fellowship and other schemes; (4) Holds seminars and events for UK Parliament and the public; (5) Develops best practice with legislatures across the globe and supports foreign research advisory bodies; and (6) Facilitates knowledge exchange between UK Parliament and research communities<sup>3</sup>.

The Netherlands Parliament has the inhouse "Analysis and Research Department" (DAO). Its core task is demand-oriented structuring, ordering, analysing, interpreting, presenting and advising on information in order to obtain knowledge relevant to the parliamentary process. Activities that the DAO focuses on are: providing substantive support in parliamentary research; fulfilling the role of knowledge broker; unlocking, generating, securing and transferring knowledge<sup>4</sup>.

Certain Parliaments have a Department of Research Services that is able to make assessments (*ex post*) of laws. Furthermore, laws have to be written with concise, clear, and comprehensible sentences and the use of legislative knowledge and domain expertise is essential. Support in this task is no luxury, but a necessity.

\* \* \*

The cornerstone for a performant scrutiny on ISFs is the presence of a law for *all* ISFs, regulating precisely their competences and function, which then creates the concrete conditions and

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<sup>3</sup> Source: <https://post.parliament.uk/about-us/>

Contact person: Dr Sarah Foxen, Knowledge Exchange Lead | @SarahFoxen, Parliamentary Office of Science and Technology, UK Parliament

<sup>4</sup> Contactperson: Mr. Jeroen Kerseboom, Head of DAO.



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possibilities for oversight and control. Such a law indicates in other words on which items and issues legislation exist, and to what extent they are object of oversight.

Oversight needs a solid legal base to be adequately organized. Mostly these kind of laws begin with a statement indicating that ISFs fulfill their tasks of administrative or judicial nature by guaranteeing and promoting the individual rights and freedoms of citizens, and also the democratic development of society. To fulfill their duties they only use coercive means that are stipulated in this law.

Such a law should determine at least in detail: (1) Who has authority and leadership over the ISFs and for which matters?; (2) What are the tasks and competences of ISFs?; (3) How should these tasks be executed and what is prohibited?; (4) Which information, documents/data are available from the ISFs to Parliament (and society) and which are not (regarding e.g. state security and terrorism). This law permits precisely to determine a number of general clear guidelines and definitions. By doing so, a clear framework for scrutiny is generated.

Such a law on the function of ISFs should be evolving with the learning process Parliament is going through and can be refined and finetuned each time the opportunity and necessity presents itself. In this way it becomes one of the most important oversight tools for Parliament. Without such a general law, parliamentary oversight on ISFs risks to become arbitrary and discretionary, which by any means has to be avoided.

## **Scrutiny**

“Scrutiny” is mostly considered as the first task of Parliaments, in other words to check and to challenge the work of the Executive. This implies by necessity that Parliaments (and their Committees) can communicate directly with the Executive and can obtain documents from the Executive.

Mostly a strict time frame is scheduled for the response of the Executive. Sometimes this relationship is regulated by the RoP, sometimes by means of a specific code of conduct. In view of an effective Budget Control by Parliament, another essential Mission (see later), this is certainly essential. Also, for analysing whether the Executive acts compliant within the border of the law, this practice is considered as standard, and is part of the parliamentary Mission.

MPs can normally question members of the Executive and experts to testify at parliamentary meetings and summon members of the Executive to testify at parliamentary meetings or hearings.



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Nevertheless, when it comes to oversight of ISFs, MPs should refrain from relying *only* on information provided by the Executive, as well as the ISFs themselves. As Parliament is responsible for overseeing those institutions, an adequate information position is essential. Minimally their access to information from the Executive should be secured, but also maximally complemented by other resources.

### Box 3: Components and Characteristics of Data/Information Gathering for the GNAT

As other Parliaments, GNAT will need adequate information, which consists of the following components and characteristics:

#### Components:

- *Information and data from the ISFs themselves*: Data on their operations and activities, the goals pursued and what ISFs know themselves about the realization of these goals;
- *Information and data from other bodies*: Inspectorates, the Ombudsman, the Turkish Court of Audit (TCA) and related institutions regarding ISFs;
- *Information/data presented by and coming from civil society*: Civil Society Organizations, Universities, research organisations regarding ISFs;
- *Own data collection by Parliament*: For example through contracting investigations and evaluations;
- *Evaluations*: Assessing the completeness, reliability and validity of the information through evaluations.

#### Characteristics of these data/information:

- *Completeness of the information*: how complete is the information/ data presented to Parliament?
- *Reliability, accuracy* ('validity') of information/ data?
- *How will this data/information be stored* (given privacy and security aspects) and *how will it be used and by whom?*
- *How will the insights be communicated* to civil society?
- *Which data/information will NOT be available* for Parliament and for which reason(s)?



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In some Parliaments “Scrutiny” is assured additionally by means of liaison offices with the Executive, which permits fluent communication of documents, again within a mandatory time frame<sup>5</sup>.

#### Box 4: International examples for parliamentary liaison offices for the Executive

For example in the United Kingdom, the liaison committee “Financial Scrutiny: Parliamentary Control over Government Budgets”, together with other committees of the House and outside bodies, is an active actor in the system of parliamentary scrutiny of the Government's finances, especially planned expenditure for future years<sup>6</sup>.

In Australia the Parliamentary Budget Office (PBO) of the Parliament of Australia was established in 2012 to ‘*inform the Parliament by providing independent and non-partisan analysis of the budget cycle, fiscal policy and the financial implications of proposals*’<sup>7</sup>. The PBO does this in three main ways: (1) by responding to requests made by Senators and Members for costings of policy proposals or for analysis of matters relating to the budget; (2) by publishing a report after every election that provides transparency around the fiscal impact of the election commitments of major parties, and (3) by conducting and publishing research that enhances the public understanding of the budget and fiscal policy settings<sup>8</sup>.

In the USA the Congressional Budget Office (since 1975) CBO has produced independent analyses of budgetary and economic issues to support the Congressional budget process. Each year, the agency’s economists and budget analysts produce dozens of reports and hundreds of cost estimates for proposed legislation<sup>9</sup>.

A few years ago it was suggested in Ireland to establish an *Irish Parliamentary Budget Office* to equip parliamentarians to engage more effectively on budgetary matters<sup>10</sup>.

<sup>5</sup> At the same time a specific liaison office can facilitate the communication with the public (see “Participation”).

<sup>6</sup> See: <https://publications.parliament.uk/pa/cm200809/cmselect/cmliain/804/80403.htm>

<sup>7</sup> Section 64B of the Parliamentary Service Act 1999 of Australia.

<sup>8</sup> See:

[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Budget\\_Office/About\\_the\\_PBO](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/About_the_PBO)

<sup>9</sup> See: <https://www.cbo.gov/about/overview>

<sup>10</sup> R. Downes and S. Nicol, Review of budget oversight by Parliament: Ireland, in: *OECD Journal on Budgeting*, 2016/1.



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Most Parliaments have the power “to carry out parliamentary inquiries”. Launching such an inquiry can deal with the ISFs or specific misconduct of members of ISFs. This is common use in most Parliaments and considered to be “*the Sword of the Parliament*” to determine political responsibility for certain deficiencies.

Effective scrutiny on ISFs by Parliament is essential for the democratic functioning of a State. Different national reports that were produced in the framework of this project mention the fact that parliamentary inquiry committees are to be considered as solid instruments to ensure such a culture. Parliamentary inquiry committees can deal with different matters and are not by necessity limited to ISFs. In that sense, parliamentary inquiry committees are instruments of general parliamentary oversight.

Such committees can become essential, when it comes to ISFs. Mostly MPs are not acquainted with these institutions and organizations, which have indeed rather specific ways of handling problems. It is therefore that parliamentary committees on ISFs are important, while professionalism has to be built and knowledge accumulated. During parliamentary inquiry committees MPs get better acquainted with the domain of internal security and the functioning of the different actors. In other words, it is an adequate instrument to install a more profound understanding and culture within Parliament on oversight issues concerning ISFs, at least when this instrument is used on a more or less regular basis and not only occasionally. Moreover, the more the subject of the inquiry covers a domain of broad public interest, which is certainly the case with ISF’s, the more citizens will feel involved in this endeavour.

The advantage of inquiry committees is that they can function independently from the Executive or the ISFs, and the rules of proceedings and the agenda can be determined by Parliament itself. From this perspective, Parliament can attribute itself by law with far reaching competences and possibilities. In most countries such a committee has all the competences of an investigating judge, except for the indictment of a suspect. This leaves room for a profound learning process and monitoring of the system.

Inquiry committees can invite witnesses, NGOs, journalists, experts, etc. to shape a realistic image of how ISFs are functioning. Often Parliaments have the power to compel these people to appear in the framework of a parliamentary inquiry. In that case people who are invited pledge to speak the truth before making their statement before the committee<sup>11</sup>. The exercise

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<sup>11</sup> This power to compel and pledge to speak the truth is not always existing. In some countries, like the Netherlands, this is not the case. This is the case when dealing with *smaller parliamentary investigations (called:*



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of these powers must be used with a high degree of professionalism with the aim of uncovering the truth, rather than as a tool for political intervention.

An important condition is that each relevant political fraction of Parliament can participate in such an inquiry committee, eventually in a proportional way. Independent experts (university professors, lawyers, independent researchers and think tanks, etc.) can be appointed to support the committee by Parliament. The result of an inquiry committee is the production of a public report (containing the indication of the problems observed, the political responsibilities and the proposed solutions) that will be deposited before the plenary session of Parliament. It is up to Parliament to vote upon. If MPs cannot agree on certain findings, dissenting opinions can be included in an annex. Parliamentary inquiries are an important asset for future parliamentary legislative initiatives and monitoring of the future.

\* \* \*

In the domain of ISFs, many (European and other) countries have an Ombudsman (function), as is the case in Turkey. Also the EU has its own ombudsman: The European Ombudsman (EO), which was established by the Treaty of Maastricht and is entrusted with the objective of combatting maladministration by the Executive branch of the European Union (EU)<sup>12</sup>. Some Parliaments, as e.g. Belgium, dispose of an independent complaints system of citizens, producing information on the functioning of ISFs.

The Turkish Ombudsman Institution is established under the Speakership of the GNAT. He examines the complaints about the functioning of the administration (Constitution Article 74 / final). The TAC is in charge of auditing all revenues and expenditures of public administrations and social security institutions within the scope of the central government budget and their properties on behalf of the GNAT (Constitution Article 160). The GNAT examines the complaints about public institutions through the Petition Committee and human rights violations through the Human Rights Inquiry Committee. In addition, the GNAT has the authority to supervise the actions and operations of the executive power and public administration through parliamentary supervision mechanisms such as written questions, general debate, parliamentary inquiry and parliamentary investigation. The coordination of the Parliament's supervision functions for the executive power with the different tools listed above is crucial.

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*parlementair onderzoek*). When the more in-depth *Parliamentary Inquiry committees* are installed (usually for more complex and problematic topics) this pledge under oath does exist.

<sup>12</sup> See C. Hofmann, *The developing role of the European Ombudsman in: Accountability in the EU. The Role of the European Ombudsman*, Edited by Herwig C.H. Hofmann and Jacques Ziller, EE Publishers, 2017.



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For all these reasons, it is necessary to strengthen the oversight function of the GNAT in general and the ISFs specifically.

Here again, an independent oversight body cannot function properly without the support of the Executive and the Parliament, so that the Executive has not only to accept but also facilitates the work of those responsible for scrutinizing it.

Independent bodies have to strike a balance between maintaining their independence while at the same time ensuring the support of the political authorities as well as the police leadership, both of which are important for their credibility but also for their potential effectiveness and impact.

Without any doubt the effectiveness of any oversight structure is dependent on visible and real political commitment on the part of both the Parliament *and* the Executive. The Executive and the Parliament have to ensure that sufficient independent police oversight mechanisms meet political commitment and solve possible problems.

It can be a complaint mechanism, assuring (1) a fair and effective treatment of complaints, but also (2) a real monitoring system of the performance of ISFs, which is the most important issue in regard of this plan. Both orientations are valid, but have different goals: the treatment of complaints by individuals on the one hand, and the monitoring of the performance of ISFs on the other. Usually, Ombudsman/Complaint commissioners are *not* given the overall Monitoring task regarding the performance of ISF's. That is done by the Audit Office, by Evaluation Institutes or through other arrangements.

Effective parliamentary oversight over ISFs is contingent on a thorough understanding of the details of their work and of the powers and tools MPs have at their disposal. They should also be provided with sufficient resources to enable oversight functions. From that point of view ISFs are accountable to the public through their representatives in Parliament, which reflects the quality of democratic accountability.

This oversight body must itself be subjected to rigorous oversight. It must report to Parliament, and its reports must be made public. It is considered to be good practice to audit the entire complaints system regularly, including all organs where complaints against ISFs can be filed and where these can be investigated<sup>13</sup>.

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<sup>13</sup> This is mostly done by a renowned academic institute under the auspices of Parliament. Another option would be the National Audit Office, if this organization is fully independent and has the capacity and competences to do this kind of 'evaluation'. In the USA private research enterprises are also sometimes doing this work. In any case, it is crucial to determine clear criteria for "independence", e.g. "Complete discretion in the exercise of functions



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## Debating

This Mission is not directly linked to the relationship between Parliament and the Executive, *but is to a large extent function of the organizational structure of Parliament itself and its (standing) committees.*

Most Parliaments consider this Mission as the core matter of democracy, which is comprehended as the balance between the rights of the majority, and those of the minority/opposition. In most Parliaments this matter is linked to the agenda-setting, voting procedures and nominations, in line with the principle of proportionality.

Some Parliaments have established a specialized parliamentary committee for dealing with security related matters that has the power to randomly scrutinize the functioning of ISFs and their budgets. Such specialized committees can accumulate expertise and experience in this field, which is essential for the quality of parliamentary oversight.

### Box 5: The EU countries that have specialized ISF oversight committees

In the report published by the European Parliament a number of specific countries have specialized parliamentary committees for the oversight of the ISFs, specifically Sweden, Spain and the Netherlands<sup>14</sup>.

Also here a proportional presence in such committee is essential to guarantee the “debating”-Mission. Membership should be guided by the thorough understanding of the functioning of ISFs, enabling them to raise questions about security policies and seek alternatives when appropriate and less by political affiliation.

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or powers”, “Statutory underpinning”, “Reporting to the Parliament”, “Independent funding”, “Transparency in the appointment of commissioners and staff”.

<sup>14</sup> See: *Parliamentary oversight of Security and Intelligence Agencies in the European Union*, 2011; see chapter 2: The European Union’s Area of Freedom, Security and Justice Bodies. Information can be found on how a few ISFs, like Europol and Eurojust, are ‘oversighted’/reviewed and how that oversight is organized.





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## Budget Control

Budget Control is mentioned as one of the central Missions of EU Parliaments. This is mostly regulated by means of the RoP. Most Parliaments have even the power to execute budget control at the level of programmes and projects, to execute the right to approve or to reject (supplementary) budget proposals, etc.

Parliaments usually approve, or reject, the budget for ISFs. The annual budget approval process is a powerful tool for raising questions and proposing alternatives related to security issues. The goal is a realistic and fair allocation of the budget for ISFs and distribution of budgetary means within these institutions, but can also be used as an instrument to steer the security policy in the direction Parliament desires, making the assessment of expenditure for specific objectives mandatory.

### Box 6: International References for Budget Review

Almost always states and organizations like the EU have special facilities and arrangements for technical staff to carry out the budget preparation, budget implementation and budget evaluation/auditing.

Sometimes this is done by organizations that are known as “Congressional Budget Offices”, sometimes this is done by Audit departments within Line Ministries and sometimes by other organizations that have expertise in this field and are mandated to do this work or assist in this work for Parliament. Handbooks and Guidance documents from OECD, Supreme Audit Offices, World Bank and similar organizations but also from the academic world, are available.

## Participation

In certain EU Parliaments and elsewhere today, the call for more participation of civil society actors is increasing. The entire legislative process should be understood as a democratic process, through the participation of stakeholders from civil society by means of parliamentary hearings, surveys, round table meetings, online and town hall meetings.



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## Box 7: Further References on Civil Society Participation

Examples are global; they include amongst others:

(1) activities like producing a manual/handbook to realize civil society participation in *North and South America*<sup>15</sup>, and

(2) work by Overseas Development Institute on “Promoting Good Governance through Civil Society–Legislator Linkages”.

Opportunities and Challenges for Policy Engagement in *Developing Country Contexts*” and “Civil Participation in Decision Making by Parliaments in the *Eastern Partnership Countries*” of the EU.

A very recent Working Document (February 2021) by the European Parliament (produced by its “Committee on Constitutional Affairs”) discussed some aspects of participation of citizens and CSO’s in a Conference on the Future of Europe. One of topics was that “the EU Parliament has underlined that the institutions need to agree to apply methodologies to collect and process citizens’ input that are uniform and consistent across all Member States”.<sup>16</sup>

The revised version of "Handbook for Participation in the Legislative Process for Civil Society" was published on June 2020 by the Association for Legislation (YASADER) in Turkey<sup>17</sup>.

Certainly, the participation of CSOs is indispensable for the oversight of ISFs. MPs must ensure they have a thorough understanding of the functioning of ISFs, enabling them to raise questions about ISFs and security policies and seek alternatives when appropriate. Also, they can discuss annual reports on police performance. The reporting of an independent complaints system of

<sup>15</sup> Manual for Civil Society Participation in OAS Activities, Organization for American States.

<sup>16</sup> Already in 2005, UNDP published a Guide which offered a snapshot of more than 300 Civil Society Organizations (CSOs) working on democratic governance at the global and regional levels. It provided information on CSOs across seven priority democratic governance areas:

1. Policy Support to Democratic Governance
2. Parliamentary Development
3. Electoral Systems and Processes
4. Justice and Human Rights
5. E-governance and Access to Information
6. Decentralization, Local Governance and Urban/Rural Development
7. Public Administration Reform and Anti-corruption.

<sup>17</sup> <http://www.yasader.org/duyurular/duyuru-stk-el-kitabi-guncellendi>



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citizens against ISFs is in this respect crucial. CSOs can provide support in this regard. The presence of a liaison office with CSOs within Parliament can facilitate this.

Not only receptive tools (e.g. on a digital platform) can facilitate the communication with CSOs, but it is also up to Parliament itself to communicate in an optimal way externally towards CSOs and individuals concerning parliamentary initiatives. Mostly these are called “*Civil Society Monitoring & Evaluation activities*”. CSOs can be interacting with Parliaments in different ways, like public hearings, open days of Parliament, round tables, committee conferences<sup>18</sup>.

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<sup>18</sup> See, for example,

[https://www.asgp.co/sites/default/files/AGSP%20PRESENATION%20PN%20TYAWA%20SOUTH%20AFRICA%20SE  
RBIA%20OCTOBER%202019.pdf](https://www.asgp.co/sites/default/files/AGSP%20PRESENATION%20PN%20TYAWA%20SOUTH%20AFRICA%20SE<br/>RBIA%20OCTOBER%202019.pdf)

<https://www.parliament.uk/globalassets/documents/post/The-Role-of-Research-in-the-UK-Parliament.pdf>

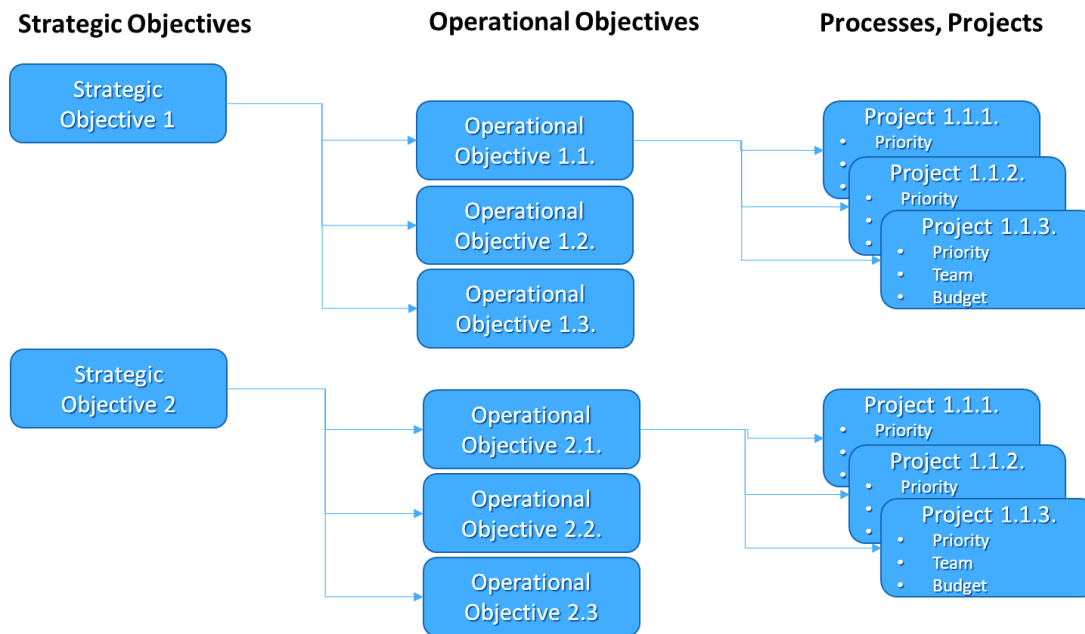


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## 5. The structure of the strategic plan

Most strategic plans have the following structure below<sup>19</sup>.

Table 1: Strategic Plan Outline



*Strategic Objectives* should be limited in number and should meet these criteria:

- *Characteristic*: Is the objective characteristic for the organization?
- *Real*: Is the objective authentic and credible?
- *Relevant*: Is the objective relevant for all stakeholders?
- *Ambitious*: Is the objective ambitious and does it includes mission/vision?
- *Motivating*: Is the objective motivating and energizing?
- *Inspiring*: Is there a link between the efforts needed and the objective?

<sup>19</sup> Bryson, J.M., *Strategic Planning for Public and Nonprofit Organizations*, 5<sup>th</sup> Edition, Wiley, 2018.



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*Operational Objectives* translates the more abstract ambition of strategic objectives and make distinction in long/middle/short term objectives.

- Makes the upper strategic objective more concrete,
- Links it to processes, projects and competences underneath,
- Has a shorter time horizon than strategic objective,
- Is formulated at the level of the organization,
- Is formulated SMART (Specific, Measurable, Achievable, Relevant, Time-bound),
- Is linked to concrete planning.

*Processes and Projects* are the concrete operationalisation of Strategic and Operational Objectives.



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## 6. Strategic and Operational Objectives and their Processes and Projects

### General assessment of the five SOs

This plan implies five SOs, which will be presented subsequently. All participants of the workshops/meeting mainly agreed that all five SOs are central for a democratic Parliament that is representative, open and transparent, accessible, accountable and effective.<sup>20</sup> Some judged that they were feasible in a time-bound priority, others wondered whether the conditions would be fulfilled for implementation under the current practice of the governmental system.

### Current Situation in Turkey

The 2017 constitutional amendments introduced a *sui generis* presidential system in Turkey and political and administrative systems have been passing through a transition since then. In this context, the relationship between the Executive and the legislative powers is not fully consolidated due to the excessive expansion of the President's decree authority on the one hand and the change of the rigid separation of powers principle in favor of the Executive on the other. The President can appoint higher civil servants including the governors, ambassadors, university rectors, and most higher civil servants, without approval of the Parliament. A parliamentary investigation which is the strongest parliamentary supervision mechanism of the executive is subject to qualified majorities –the signatures of the 301 deputies for the submission of the motion of investigation, the support of 360 deputies to form an investigation committee, and the support of 400 deputies for the trial of the President, the deputy-President or the relevant minister at the Supreme Court. In other words, the need for a qualified majority to establish inquiry committees, investigation, or passing laws is reflected in the deficient effectiveness of the parliamentary oversight functions due to strict party discipline.

The viability of the following SOs are based on the effective reorganization and practice of the principle of separation of powers, and checks and balances mechanisms.

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<sup>20</sup> IPU, Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice, 2006.



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Therefore, there is a need to strengthen the GNAT's oversight function on the executive activities, including the ISFs. Not only the sensitivity of the subject matter, namely the operations of the ISFs but also the long-lasting impact of the armed threats against Turkey's security has delayed some basic reforms in the administration as well as the political system. Keeping all these constraints in mind, however, Turkey's march towards the EU and the desire to catch up with the international standards require further democratic and institutional reforms in a foreseeable future.

## **Strengths**

It is fairly shared by the interlocutors of the workshops and the meetings that the proposed SOs can contribute to offset the relationship between the GNAT and the Executive<sup>21</sup>. The SOs are not exclusive yet can be applicable in a time-bound priority even under the existing legal framework and the RoP. The main objectives can eliminate the weaknesses of the Parliament and increase a more participatory legislative process emphasizing the oversight function specifically. In this respect, this study presents a timely opportunity. The introduction of the presented SOs implies no constitutional change, yet amendments/changes in the RoP can be necessary in the long run. Briefly, most SOs and their components can be implemented within the current legal framework with the initiative of the political parties represented in Parliament and with the initiative and will of the Speaker. Other will require political parties represented in the Parliament to bring the RoP on the parliamentary and political agenda, making the Parliament more compatible with the new government system of Turkey to ensure separation of powers and checks and balances as in ideal Presidential systems.

## **Major Concerns**

The participants of the workshops and the experts consulted have agreed with the outline and content of this report and all contributed to prioritization of the issues. However, it - as for all policy documents - has to be supported and initiated by a strong political will. Some

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<sup>21</sup> See: (1) Minutes of the workshop organised on January 20 and 21, 2021 by UNDP. This workshop brought together a limited number of legislative experts, MPs and other relevant stakeholders, including academia and CSOs; (2) Minutes of the second workshop organised by UNDP on March 10 and 11, 2021. The reworked strategic plan was discussed with a number of eminent academics and practitioners.



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interlocutors raised concerns whether the political parties within the government are willing to become accountable to the Parliament and citizens and to respond to questions asked within the Parliament. Nevertheless, it should be recommended in line with international standards, that an effective parliamentary oversight of the executive and administrative units (in particular the ISFs) cannot be carried out unless the Parliament fulfills its autonomous and effective oversight function, and the role of opposition is strengthened in the parliamentary processes (especially in the Committees).

Briefly, the current political transition in Turkey and the actual parliamentary regulations are the major obstacles for the effective implementation of reforms.

**Table 2: Tentative timeline for the SOs and OOs**

		Short term	Middle term	Long term
SO 1.	OO 1.1.	X		
	OO 1.2.	X		
SO 2.	OO 2.1.	X		
	OO 2.2.	X		
SO 3.	OO 3.1.	X		
	OO 3.2.	X		
	OO 3.3.		X	
	OO 3.4.		X	
SO 4.	OO 4.1.	X		
	OO 4.2.		X	
	OO 4.3.	X		
SO 5.	OO 5.1.	X		
	OO 5.2.		X	
	OO 5.3.		X	





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## ***Strategic Objective 1. Improving the participatory capacity of the GNAT by engaging with other stakeholders including Civil Society Organisations (CSOs) and universities***

### **Rationale**

Civil society organisations include all non-state, not-for-profit structures that are non-partisan and non-violent, through which people organise to pursue shared objectives and ideals, whether political, cultural, social or economic. Experts are both academic and non-academic practitioners who can provide detailed information and assessment on the subject matter. Parliaments are formal institutional mechanisms for consultation, dialogue and deliberation. Parliamentarians make public policy decisions on a lot of different issues and they cannot be experts of every subject matter. That is where the CSOs came into the picture with their diverse expertise, capabilities, network and outreach related to diverse topics and geographies.

Parliamentary committees, such as the Plan and Budget can organize more formalized public hearings on fiscal matters. By engaging the public in the policy making process Parliament can legitimize the decision-making process, bring new alternatives to the table that might have been missed, increase stakeholder support for the decisions, and reduce the potential for future dispute. Human Rights Investigation Committee can make consultations with more CSOs that monitor the rights and freedoms issues in the country towards balancing the human rights and security requisites. Other legislative committees can invite the relevant CSOs in the deliberation of draft laws related to internal security including vulnerable groups or other societal dynamics.

### **Box 8: References to involvement of CSOs**

In relation to this it is important to stress that the EU supports the development of civil society, allowing its more active participation in democratic policy and decision making processes in Turkey. Civil society organizations in modern democracies are an expression of the right of citizens to form associations in order to pursue a common purpose, as highlighted in Article 12 of the European Charter of Fundamental Rights. Associations give voice to the concerns of



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citizens and allow them to participate in the political or legislative process that affects their lives<sup>22</sup>.

Outside Europe for example, in South Africa, parliamentary committees are required to invite civil society and experts to comment every time the budget is tabled. A new parliamentary budget office provides technical staff to collect the information, including civil society input, and advises the Parliament. In South Korea, the parliamentary Special Committee on Budgets invites experts to a publicly broadcasted hearing. These experts are selected in coordination with political parties to include a diverse range of specialists. The hearing evaluates the overall economic and tax forecasts, fiscal stance, and the need to amend any expenditure programs. In some countries (South Korea and Argentina) the audit institutions incorporate citizens into the planning of audits.

## **SO1 and its OOs and PPs**

**Operational Objective 1.1.** *Establishing a liaison office for CSOs and universities (academics, experts, etc.)*

The RoP enables the committees to invite CSOs and experts and hear them on the matters they deliberate. Starting from the EU negotiations in 2004 until 2012, the GNAT initiated several activities to improve the CSOs' participation but it is not effective anymore. To rejuvenate the governance concept in public administration the Parliament has a very vital role. The relationship between the GNAT and the other stakeholders, including universities, should be based on a regular and formal, rather than informal, ad hoc and voluntary basis. This mechanism will facilitate two-way flow of information on the one hand and enhance the parliament's law making and oversight capacity.

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<sup>22</sup> Participation of NGOs to the legislative process in the Parliament (Grand National Assembly of Turkey) - Netherlands Helsinki Committee (nhc.nl)



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There is an additional reason to plead for consultation and collaboration with CSOs. Since Regulatory Impact Assessment (RIA) becomes more and more important, EU member States involve increasingly experts in these assessments<sup>23</sup>.

- **Project 1.1.1.** Establishing a pool of CSOs, universities, and experts and constantly update its records.
- **Project 1.1.2.** Making this pool available to the committees and MPs who need relevant information and documents.
- **Project 1.1.3.** The office provides training for MPs and legislative staff on how to communicate with CSOs effectively and CSOs on legislative process.

**Operational Objective 1.2.** *Developing a communication strategy between the Parliament and CSOs to ensure that stakeholders know about, understand and contribute to the process (oversight/policymaking).*

A clearly articulated framework helps to manage expectations of participants. Participation must be adequately timed within the deadlines imposed by the existing legal framework (RoP). Public participation benefits greatly from professional facilitation to help manage the process. Publicizing the impact of participation can build trust and legitimacy, and create incentives for further engagement. CSOs must have access to solid, appropriate and timely information. Besides, CSOs need to improve their own capacity including skills to technical knowledge, research skills and resources.

- **Project 1.2.1.** Planning and programming ad hoc or regular meetings with the CSOs and experts in accordance with the committee(s) agenda.

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<sup>23</sup> As already mentioned, the EU often requires RIA's.. On a next level, sometimes the OECD carries out evaluations to find out what the methodological quality of the RIA's is and if and how they are used. OECD also checks the independence of RIA's.



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- **Project 1.2.2.** More effective use of information technologies to enhance transparency and to ease relations with CSOs as well as informing the public about the processes of oversight and legislation.
- **Project 1.2.3.** Preparation of standards and forms to be used for the submission of opinions from the CSOs and outside experts.
- **Project 1.2.4.** To establish more and even more direct relations between the MPs and citizens, which facilitates and strengthens the communication between both (e-Parliament).<sup>24</sup>
- **Project 1.2.5.** Organizing capacity development training for CSOs to know about, understand and contribute to parliamentary oversight/policy-making processes technically and methodologically.

## General assessment of the SO1

The current Strategic Plan of the GNAT's Administrative Organization (SPAO) underlines the need for "Strengthening the existing infrastructure for transferring the knowledge, experience and opinions of civil society and public institutions and organizations to the legislative process" (Strategic Objective A1). To increase the quality of the services provided in the legislative and audit processes continuously and Target H1.1. To increase the quality of information services provided in legislative and audit processes continuously.<sup>25</sup>

Moreover, the SPAO underlines the need for increasing the "Integrated Legislative Information Pool", "strengthening the existing infrastructure for transferring the knowledge, experience and opinions of civil society and public institutions and organizations to the legislative process" and need for professional support in the Parliament's work.

While the SPAO assigns the Directorate of Laws and Resolutions as the coordinator of this task in collaboration with other units, the interlocutors suggested that instead of establishing a new unit, the "press unit", namely the Directorate of Press, Publication and Public Relations can operate as a pilot unit for the implementation of this SO A1. According to the Regulation on the Procedures and Principles of Preparations of Legislation (Article 6/2), which was adopted in 2006 yet is not used today, there is a provision that the opinions and the results of the empirical

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<sup>24</sup> e-Parliament Programme: IT for parliamentary work, <https://europa.eu/digitec/news/eparliament-project/>.

<sup>25</sup> Grand National Assembly of Turkey, Strategic Plan of the Administrative Organization of the GNAT 2018-2022, [http://www.sp.gov.tr/upload/xSPStratejikPlan/files/R4ADY+TBMM\\_SP\\_18-22.pdf](http://www.sp.gov.tr/upload/xSPStratejikPlan/files/R4ADY+TBMM_SP_18-22.pdf).



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research of relevant local administrations, universities, trade unions, public institutions, and non-governmental organizations can be utilized<sup>26</sup>. This provision, which was applied during the former parliamentary system, can also be applicable to the bills submitted by the MPs currently. Today, some individual deputies publicize their proposals through internet. However, to implement this process more effectively and regularly, the Speaker of the GNAT can take the necessary measures.

The liaison unit, in cooperation with the presidency of the GNAT and the relevant committees, can ensure that the individual proposals are presented to the public before the committees start deliberation. And then the opinions of the relevant institutions and organizations are classified and taken into consideration by the committees. Most of the interlocutors of the workshops found that this SO was relatively feasible in a short term.

## Risks and Measures

1. Who/which unit will determine, maintain and update the pool of CSOs and outside experts? The officer(s) in charge of maintaining a pool of CSOs and outside experts in terms of their capacity, size, representativeness, knowledge, research, publications, etc.-, and making them available to the standing committees and MPs.. Processing is at least as important as access. The office should also “review” the validity of the information. How broad is it? Which actors are concerned? Is the information selective? How is that office going to transfer the information to the MPs? The Liaison office will need a clear manual on what is going to be done with the information. The Directorate of Laws and Resolutions can develop a format and standards of keeping and maintain such a registry based on objective indicators. To secure plurality and credibility of the registry, an inter-party group mechanism or the Bureau of the Assembly can monitor this process regularly.

2. While the selection criteria shall set certain prerequisites in terms of competence, experience, representation of the CSO, additional criteria can exclude some CSOs and/or experts (e.g. for security reasons) from the list, which is not closed but updated regularly. Hearings have to be very transparent and open. Also, the idea of pluralist conduct of these processes is essential. This includes also the voice of the opposition parties. It should be clear who will be invited to the hearings. For a better public policy formulation or scrutiny of

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<sup>26</sup> Mevzuat Hazırlama Usul ve Esasları Hakkında Yönetmelik,  
<https://www.mevzuat.gov.tr/MevzuatMetin/3.5.20059986.pdf>



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governmental affairs as well as securing pluralism the inclusion of significant CSOs/experts outside the mainstream can be invited on an *ad hoc* basis per issue/consultation (in special meetings).

3. The liaison office for CSOs and universities (academics, experts, etc.) may work as an institutional screening. Information should not be kept confidential and must be publicized as much as possible. The task of establishing such a mechanism is to maintain and update the list of relevant CSOs, outside experts whose knowledge and expertise may be needed in the Parliament's legislative works. The RoP has to be explanatory and be clear for everyone regarding the criteria for inclusion. The 'Liaison office' has to be transparent and responsive to all participants. Otherwise, people will think that the office is used as a means of public relations. Clearance and transparency on how the information is going to be implemented in the Parliament determine success.

4. Invitation of the relevant CSOs/outside experts is at the discretion of the Committee Chair at present. In the RoP, the phrase "outside experts" is interpreted as inclusive of CSOs, therefore, it is up to the discretion of the committee chair to invite any civil society organization. Participation of CSOs in the committee hearings has to be included in the RoP. It can be sustained by a protocol in short term stating that CSOs can also be heard in committee meetings. To avoid this subjectivity, the party groups/committee members can individually invite a CSO/expert for a hearing, too.

5. According to a MP, establishing a separate and common *liaison office for CSOs and universities under the Speaker or the Department of Laws and Resolutions* (PP 1.1.1.) may cause bureaucratic obstacles and may become less effective practically. The pool of civil society organizations and external experts must be maintained by each standing committee independently, a steering body composed of the committee chairman and representatives of the party groups. The party groups propose the names of the CSOs and external experts for each case inclusively. Exclusion of some CSOs and experts will be contrary to the principle of democracy and pluralism. Unless there is a court decisions all parties must participate in law making and supervision activities equally.



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## ***Strategic Objective 2. Establishing an effective parliamentary oversight of ISFs' together with an independent oversight body***

### **Rationale**

The GNAT can exercise its oversight function directly through the standing committees, e.g. Human Rights Investigation Committee, or ad hoc inquiry committees on specific issues, and through budgetary or law-making processes indirectly. All these procedures and mechanisms are naturally subject to the decision of the parliamentary majority eventually. The legality and propriety scrutiny of the annual activities of the public institutions including the decentralized administrations by the Audit Court on behalf of the GNAT is not debated by the GNAT. Therefore, the oversight function of the GNAT is not effectively accomplished.

The Ombudsman Institution which is attached to the GNAT by Law No. 6328 adopted in 2012 yet has a legal personality with a separate budget. The purpose of the Institution is to establish an independent and efficient complaint mechanism regarding the delivery of public services, and investigate, conduct research and make recommendations about the conformity of all kinds of actions, acts, attitudes, and behaviours of the administration with law and fairness under the respect for human rights. Natural and legal persons including foreign nationals may lodge complaints to the Ombudsman Institution. The Ombudsman prepares the annual report and submits it to the Joint Committee of Petition and Human Rights Investigation Committees. In the selection of the Chief Ombudsman, three candidates are determined by the joint Committee, and in the selection of the five ombudsmen, three times as many candidates for each membership are determined by the Committee. The Plenary of the GNAT elects the chief Ombudsman and ombudsmen in four rounds, 2/3 majority in the first two rounds and an absolute majority in the third, and a simple majority are required in the last round. In other words, in the current system, the determination of the candidates by the joint committee and the voting in the Plenary are open to the influence of the majority party/parties. Since the Ombudsman has no sanctioning authority directly, the implementation of its decisions are at the discretion of the relevant public or private authority.<sup>27</sup>

The highest investigation, supervision and research institution in the Turkish State organization, the State Supervisory Council, is entitled to a fully-fledged competence including investigation

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<sup>27</sup> The rate of compliance with the Ombudsman's recommendations is about 75 percent. 15.02.2020. <https://www.aa.com.tr/tr/turkiye/kdknin-verdigi-tavsiye-kararlarina-uyma-orani-yuzde-75e-cikti/1734720>



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and sanction authority in a broad spectrum of administration yet affiliated with the Presidential Office, acts upon the President's order and the publicity is very limited.

The Law Enforcement Oversight Commission (LEC), which was established by the Law No. 6713 adopted in 2016, is affiliated with the Ministry of Interior Affairs. The seven members of the LEC are appointed by the President of the Republic, the deputy Ministry prepares the agenda and the Administrative Inspection Board serves as the secretariat. The relevant legislation aims to ensure a more effective and rapid functioning of the law enforcement complaint system, to improve its transparency and reliability, and maintaining and monitoring a central registry in which the activities and transactions that are or should be carried out by the administrative authorities due to the alleged crimes or actions, attitudes or behaviours that require disciplinary punishment. According to the principle of accountability set by the relevant regulation, law enforcement agencies are accountable to the GNAT for their actions, omissions, and orders together with the hierarchical superiors. The Commission prepares annual reports on its audits, opinions and proposals on the issues and submits them to the Speaker and the Human Rights Investigation Committee of the GNAT. The Commission can organize several activities on the issues together with the relevant civil society organizations and the universities. Although the Commission is a positive step towards establishing an effective complaint mechanism on the disciplinary actions, violation of rules and regulations by the law enforcements officers, overall it is under the executive authority and shall submit annual reports to the Human Rights Investigation Committee of the GNAT only.

In other words, the GNAT does not take a direct initiative neither in appointing the members of the LEC nor in overseeing its activities. As a consequence, the LEC's activities are public with certain reservations.

### **Box 9: Independent Oversight Committees affiliated with the Parliaments**

Many Council of Europe member States have either established a parliamentary (sub) committee or non parliamentary committee including parliamentarians proportionally for overseeing security services/intelligence in general and/or including police etc. (e.g. Italy, Germany and Poland)<sup>28</sup> or vesting parliamentary oversight of security services in a single

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<sup>28</sup> See: Parliamentary oversight of security and intelligence agencies in the European Union, [https://www.dcaf.ch/sites/default/files/publications/documents/study\\_en.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/study_en.pdf)





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committee that exists exclusively for the oversight of security services. (e.g. Georgia and Montenegro)<sup>29</sup>.

For example, Belgian Parliament installed its own para-parliamentary “Standing Police Monitoring Committee” by the Law of July 18, 1991. This law deals with the oversight on police and intelligence services, also on the Coordination Unit for Threat Assessment. It is an external institution, as well towards the executive power, as towards the police forces<sup>30</sup>. The Committee is composed of four components: (1) a Permanent Committee (the “College”), (2) an Investigating Service with police competences, (3) supporting units and (4) a complaint section<sup>31</sup>. France’s Délégation Parlementaire au Renseignement is tasked with overseeing “l’activité générale et les moyens” of various intelligence and security services. In Germany, the “Parliamentary Control Panel” is tasked with overseeing the “activities” of the security and intelligence services. Lithuanian Seimas Committee on Parliamentary Scrutiny of Intelligence Operations, have a specific mandate to examine security service compliance with constitutional rights and freedoms (in addition to other matters. Some parliamentary oversight committees (e.g. in Poland, Hungary and Slovakia) are also charged with handling complaints against security services. However, the handling of complaints about violations of human rights by political bodies like the Parliament may have a risk of politicization in the hands of political Executive.

Parliamentary oversight of security services is based on democratic legitimacy – scrutinising security services on behalf of the represented. Parliaments, as best placed to oversee the Executive’s role in directing and overseeing the security services, can reflect the outcomes of oversight of security services in budgetary process by which the Executive and the security services amend policies or practices contrary to the human rights. Political competition may cause some weaknesses in this process. Without sufficient time and expertise –high turnover, short tenure in the committees like in Turkey- parliamentary oversight committees cannot oversee the legality of activity effectively.

However, parliamentary oversight committees can also play an important role in monitoring the work of expert oversight bodies like in Norway the “Storting’s Standing Committee on Scrutiny and Constitutional Affairs” and in the Netherlands the “Intelligence and Security Committee of the Second Chamber”, a special parliamentary committee composed of the chairpersons of political parties in the chamber. This committee is ‘secret’, which means that the members/ chair are not allowed to say something about their work. Moreover, in the

<sup>29</sup> See: Parliamentary oversight in the area of security and defence, [http://pdc.ceu.hu/archive/00007043/01/MANS\\_Parliamentary-Oversight-in-Security-and-Defence\\_2010.pdf](http://pdc.ceu.hu/archive/00007043/01/MANS_Parliamentary-Oversight-in-Security-and-Defence_2010.pdf)

<sup>30</sup> See: <http://www.comitep.be/NL/index.asp?ID=Intro>

<sup>31</sup> See: <http://www.comitep.be/NL/index.asp?ID=Org>



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Netherlands there is also a special Oversight Organization focusing on National Coordinator for Terrorism and Security (NCTV, a governmental agency residing under the Ministry of Justice and Security). That oversight organization is called: The Review Committee on the Intelligence and Security Services (CTIVD). It was founded in 2002. Next to Oversight, it also handles complaints against (among others) the implementation of the Intelligence and Security Services Act 2017<sup>32</sup>.

## SO2 and its OOs and PPs

**Operational Objective 2.1.** *Conducting a need assessment for promoting effective parliamentary oversight of ISFs*

- **Project 2.1.1.** Analysis of International and European standards on the parliamentary oversight of security services: composition, rules on membership, mandate, and scope.
- **Project 2.1.2.** Analysis of the performance and impact of the existing oversight mechanisms of ISFs in Turkey.
- **Project 2.1.3.** Conducting interviews with the relevant stakeholders.

**Operational Objective 2.2.** *Examining the feasibility of establishing an independent oversight body and its relation with the GNAT*

Expert security/intelligence oversight bodies are non- or para-parliamentary entities that are set up specifically to oversee security services including on their compliance with human rights law, e.g. in Norway, the Netherlands and Portugal, and sometimes to handle complaints about security service activity including alleged unlawful surveillance and/or use of personal data, e.g. Belgium's Committee P and I, Sweden's SIN and Norway's EOS-Utvalget Committee. Expertise and full-time work facilitates the expeditious handling of complaints and can, therefore, be a significant advantage as compared to more general venues for complaints handling, such as ombudspersons.

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<sup>32</sup> See <https://english.ctivd.nl/about-ctivd>



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In Turkey, the Law Enforcement Oversight Commission affiliated with the Ministry of Interior Affairs is an internal mechanism within the Executive/ministry. It has several functions yet it is not an independent body.

The Supreme Board of Supervision is affiliated with the Presidential Office, yet not an independent body, too. Ombudsman is responsible to the GNAT, yet it is not assigned to supervise ISFs specifically. In other words, it needs further reorganization and professionalization. The GNAT has Petition Committee and the Human Rights Investigation Committees to which several complaints on human rights violations related to the law enforcement agencies are submitted. The latter may also make independent investigations and reports. However, these do not meet the requirements of independent and impartial oversight of ISFs based on full time expertise as expressed above.

- **Project 2.2.1.** Analysis of the good practices from EU and COE member countries, using content analysis on documents or surveys.
- **Project 2.2.2.** Conducting interviews with the relevant stakeholders.
- **Project 2.2.3.** Organizing Focus Groups, including the relevant stakeholders, for validating data from first two projects.
- **Project 2.2.4.** Drafting Alternative Models for establishing an independent oversight body for ISFs, its legal status, qualification of members, selection method, mandates including access to full information, investigation, complaint handling, its communication with the GNAT and other stakeholders.

## General assessment of the SO2

### Strengths

In the long term, this SO2 aims to establish an independent oversight unit for analysis and reporting associated with the GNAT for ISFs, together with its establishment and working procedures. There is the Law Enforcement Oversight Commission affiliated with the Ministry of Interior, reporting to Human Rights Investigation Committee. Establishing a delicate separate oversight body should consider the Parliament's authority to gather information about the results of oversight activities carried out by the Ministry of Interior Affairs, inspection units, and



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the relevant civil society organizations as well as its capacity and capability to review/evaluate that information<sup>33</sup> (Box, pages 9-10).

This should be an independent body like the Court of Accounts, and needs not to be organized in Parliament itself. However, the proposed SO is directed towards a need assessment on the one hand and an examination of the feasibility of such a mechanism in the Turkish political and administrative system. The installation on the long run of an independent complaint body will result from the outcome of these first steps and the realization of the other SOs. This will also provide a thorough assessment of alternative mechanisms existing in Turkey.

## Risks and Measures

1. The Strategic Plan of the Administrative Organization of the GNAT 2018-2022 underlines resistance to change in and outside the organization among the major risks for improving institutional capacity. This risk is valid for such a challenging proposal, too. However, the Speaker of the GNAT and the party groups may express a strong will to broaden the perspective and vision of the GNAT in strengthening the institutional capacity and position in law-making as well as oversight functions in light of the good practices in different governmental systems.
2. The Executive may put forward certain reservations in terms of national security and public order rightly. In this respect, the current mechanisms such as the Ombudsman, the Law Enforcement Oversight Commission and the institutional inspection system can also be found sufficient. However, the fundamental target of these operational objectives is directed towards a more independent, participatory, and effective parliamentary scrutiny in collaboration with the Executive and other stakeholders. The outcome of this SO should include clear indications concerning the definition of “independence” certainly when it comes to the designation of the direction and members of this body. These initial works can provide an extensive and full assessment of both executive and legislative powers in the oversight process, including responsibility, public good, and accountability.
3. The accomplishment of other SOs, especially SO1 is another criterion of success.

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<sup>33</sup> See Box 1 in this plan: Components and Characteristics of Data/Information Gathering for the GNAT.



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### ***Strategic Objective 3. Strengthening budgetary oversight of the ISFs.***

#### **Rationale**

Parliamentary oversight of the Executive is to ensure that public policy is administered in accordance with the legal objectives. Monitoring the implementation process that the MPs uncover any defects and act to correct misinterpretation or maladministration is complementary of the passage of a bill. In this sense, the concept of budgetary oversight exists as an essential corollary to the law making process. It is an accepted criterion of democracy that Parliament holds the ‘power of the purse’, i.e. it must authorize all expenditures, all borrowings, and all revenues to be collected through the power of the state. To strengthen the Parliament’s institutional budgetary oversight capacity strong and capable parliamentary committees are required. An efficient division of labour, cooperation and collaboration between different committees, notably the budget and finance committee, on the one hand, and the other standing committees, on the other are necessary.

In 2019 a study by OECD, which also included Turkey (and all other OECD member states) observed that in all OECD countries, the legislature has a traditional role in authorising public expenditures and revenue-raising. Over recent years, there has been a trend towards stronger engagement of the Parliament across the full budget cycle, with more countries reporting an *ex ante* role. In many cases this is related to the division of the budgetary cycle into a fiscal policy semester, followed by a resource-allocation (budgeting) semester, which allows for a sequential engagement by Parliament and its committees at various phases; in other cases, the *ex ante* engagement relates to signalling of policy choices and priorities. There is also a marked tendency towards parliamentary approval or discussion of mediumterm budgetary frameworks, driven in part by the evolving fiscal framework within the EU.

In Turkey, the 2017 Constitutional amendments empowered the President to prepare the annual budget and to submit it to the GNAT. The size of the Plan and Budget Committee was 40 by Article 162 of the 1982 Constitution which was repealed in 2017 and simultaneously its size was reduced from 40 to 30 by the GNAT’s decision simultaneously. Political parties are represented in the committee proportional to their strength in the Parliament. Since the decisions are taken with the majority in the committees, the MPs from the opposition parties can hardly make changes in the budget and the final accounts. The budgets of public institutions/agencies are read and voted as sections without sufficient debates in the Plenary. The MPs are not knowledgeable in some specific sectors such as ISF and they lack sufficient and



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timely available information from the relevant public authorities in this respect. The parliamentary staffs, especially the legislative experts, need further capacity development in scrutinizing the details of the budgetary instruments including performance programs, etc. The Strategic Plan of the Administrative Organization of the GNAT 2018-2022 also admits that the Plan and Budget Committee requires an in-depth presentation of information on the main fields of work. Moreover, due to a lack of institutional internal information access environment, the information cannot be translated into open information. Furthermore, the number of qualified personnel is insufficient. These are major deficits in making an effective budgetary oversight of the GNAT.

The Public Order and Security Services (Defence Services excluded) was estimated 8% of the total Central Government expenditures in 2020.<sup>34</sup> Parliament's most important mechanisms for controlling the Executive is the budget. This requires transparent and democratic governance and democratic control of the security services.

#### **Box 10: Specific international budgetary oversight committees affiliated with Parliaments**

Some states have established (sub) committees with niche mandates to oversee specific aspects of security service activity. For example, the Spanish Cortes' Secret Funds Committee and the German Bundestag's Confidential Committee, both of which are responsible for scrutinising the budgets/finances of the security services.

Other states like *the Netherlands* have in its Parliament the *Committee on Justice and Security*, that addresses oversight on police, gendarmerie, and coast guard. The committee uses results from (1) inspections done by the Inspectorate for Justice and Security, (2) from audits of the National Audit Office and (3) from specifically requested evaluations ( of, for example, the 2012 New Law on the National Police) carried out by Independent Committees, that contract research organizations/ universities to collect data and prepare specific reports.

In the *UK* a recent report commissioned by the House of Lords described the way in which the police is governed and reviewed. "*All police forces in the UK are subject to oversight by an independent body. The purpose of such oversight is to ensure that the quality of policing keeps improving*". Organizations doing the oversight work are several inspectorates, like "*Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS)*", that is

<sup>34</sup> T.C. Cumhurbaşkanlığı, 2020 Yılı Merkezi Yönetim Bütçe Kanun Teklifi ve Bağlı Cetveller, [https://www.sbb.gov.tr/wp-content/uploads/2019/10/2020\\_Yili\\_Merkezi\\_Yonetim\\_Butce\\_Kanunu\\_Teklifi\\_ve\\_Bagli\\_Cetveller-1.pdf](https://www.sbb.gov.tr/wp-content/uploads/2019/10/2020_Yili_Merkezi_Yonetim_Butce_Kanunu_Teklifi_ve_Bagli_Cetveller-1.pdf)



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responsible for independently assessing and reporting on the efficiency and effectiveness of police forces<sup>35</sup>.

Although this budgetary oversight may not appear to be directly concerned with human rights protection, there is an important nexus because financial practices are often indicative of the broader propriety of programmes or operations. According to the Law No. 6085 on Court of Audit the President of the Turkish Court of Audit briefs about the Plan and Budget Committee, at least twice a year regarding the activities of Court, and the other relevant committees as needed.

## SO3 and its OOs and PPs

**Operational Objective 3.1.** *Training of the relevant committee members (e.g. Budget and Planning Committee or the Internal Affairs Committee) and specialized legislative staff on techniques of ISFs oversight.*

- **Project 3.1.1.** Preparation of a handbook or guidelines on ISFs' budgeting details
- **Project 3.1.2.** Developing a curriculum for training of MPs and specialized legislative staff
- **Project 3.1.3.** Implementing a regular training for MPs and specialized legislative staff

**Operational Objective 3.2.** Enforcing Article 21/3 of the Law No. 6083 effectively by inviting the TCA President or the authorized representatives to brief the relevant standing committees on the Audit Court's evaluations of the ISFs as set by the Law.

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<sup>35</sup> See House of Lords, "Policing in the UK: Governance, Oversight and Complaints", Library Briefing, January 14, 2020.



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- **Project 3.2.1.** Making a protocol (Code of Conduct) between the TCA and the relevant standing committees for institutionalizing regular briefings by the TCA on ISFs financial oversight.
- **Project 3.2.2.** Organizing deliberation on the briefings by the TCA on ISFs financial oversight.
- **Project 3.2.3.** Consultation of the relevant standing committees to the relevant ISFs upon the briefing highlights.
- **Project 3.2.4.** Initiation of motions of general debate or parliamentary inquiry on the improper financial practices of the ISFs by the committee members.

**Operational Objective 3.3.** *Developing a joint committee composed of, Interior Affairs, Human Rights Investigation and Plan and Budget Committees to review the ISFs activities in collaboration with the Law Enforcement Oversight Commission affiliated with the Ministry of Interior Affairs quarterly.*

- **Project 3.3.1.** Setting up a regular framework of this joint committee (membership vetting etc.)
- **Project 3.3.2.** Reporting of the reviews to the Office of Speaker and the Ministry of Interior Affairs
- **Project 3.3.3.** Developing recommendations for legislation
- **Project 3.3.4.** Making a protocol with the Law Enforcement Oversight Commission affiliated with the Ministry of Interior Affairs to obtain all information regularly and timely.

**[Alternatively (Operational Objective 3.4.)** *Setting up a regular sub-committee under the Plan and Budget or Interior Affairs Committee dealing with the ISFs (or security sector in general) budgeting and auditing due to the fact that this requires a longer time frame and technicality.*

This subcommittee regularly examines the activities of the ISFs in collaboration with the Law Enforcement Oversight Commission affiliated with the Ministry of Interior Affairs.





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- **Project 3.4.1.** Developing a Code of Conduct for this sub-committee (including selection of member, vetting procedure etc.)
- **Project 3.4.2.** Providing sufficient specialized legislative staff to this sub-committee
- **Project 3.4.3.** Developing reporting standards for the sub committee's reviews
- **Project 3.4.4.** Making a protocol with the Law Enforcement Oversight Commission affiliated with the Ministry of Interior Affairs to obtain all information regularly and timely.]

### **General assessment of the SO3**

The implementation of this SO implies the development of protocols, institutional reshuffling, and/or a change of the RoP, which can take a long time. However, it is the discretion of the Office of Speaker and the relevant committees' chairs to implement the first two SOs effectively under the current legislation in light of the identified issues and needs by the Strategic Plan of the Administrative Organization of the GNAT 2018-2022 directly.

### **Risks and Measures**

1. Budgetary control is for managing income and expenditure regularly comparing actual income or expenditure to planned income or expenditure to identify whether or not corrective action is required. The budget audit examines techniques, procedures, motivation, and budget effectiveness. A budget audit detects problems in the budgeting process and is not only financial (compliance) but also measuring impacts, effects, and goal achievements. In other words, oversight of the accounts, here the question is whether the budget is used for the goal which was foreseen ("review of expediency"). Such auditing is not only financial (compliance) but also measuring impacts, effects, and goal achievements. Currently, performance-based budgeting is in practice, yet needs to be efficient. Performance-based budgeting activities are considered as paperwork on documents. However, most public authorities underestimate the conformity between their missions, visions, and services and budgetary transactions. Publicity of the annual accounts in detail regularly and independence of public audition are major concerns. In this respect, specifically in the case of the ISFs, the criterion of human rights performance indicators can be introduced as a precondition for budgetary allocation, too.



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2. The TCA audits the public administrations' annual accounts and transactions regarding revenues, expenditures, and assets in accordance with the laws and other legal regulations, the reliability and accuracy of financial reports and statements, and performance management within the framework of accountability. The parliamentary oversight of the ISFs is not exclusive to financial management but also includes the review of expediency in terms of democratic values and human rights principles. Whether the TCA's audit reports on performance management may be sufficient for such scrutiny is another major concern. Secondly, the content of the audit reports may not include all transactions such as discretionary funds. It is underlined by some interlocutors that budgetary oversight of the funds is very crucial in terms of accountability. To overcome such risks, first of all, Law No. 6085 on Audit Court entitles the Speaker of the GNAT to demand the TCA to audit the accounts and transactions of all public institutions and organizations, regardless of whether they are subject to audit ... and the results of audits shall be submitted to the Speaker of the GNAT.<sup>36</sup> Secondly, special hearings can be organized by the relevant committee(s) where the representatives from the TCA and the Ministry of Interior Affairs and/or the relevant ISF can attend and explain the facts to the MPs and the confidential information shall not be public for a certain period. These reports are only provided to committee members, and thus there is no civilian oversight.
3. Vetting and security clearance processes for MPs may constitute another problem. Selection methods vary from country to country. A simple majority of the Plenary (Germany and Spain); party group leadership (USA and Hungary); the head of the Executive (Prime Minister) in consultation with the opposition parties (in some Westminster system) or the Speaker of the Parliament (France and Italy) determine the members of such oversight committees.<sup>37</sup> The main criteria for selection include knowledge of and interest in the subject matter; will of impartiality and respect and trust in such services. Project 3.3.1 and 3.4.1. of the SO 3 suggests the determination of selection of MPs and vetting procedures shall be defined as a measure for this concern.

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<sup>36</sup> ARTICLE 45 - (1) Upon the decision of the Turkish Grand National Assembly research, investigation and specialization committees, provided that the audit shall be limited to the demanded matter, the Speaker of Turkish Grand National Assembly may demand the Turkish Court of Accounts to audit the accounts and transactions of all public institutions and organizations, regardless of whether they are subject to audit including privatization, incentive, loan and credit implementations, and by the same procedure, the accounts and transactions of any institution, organization, fund, enterprise, company, cooperative, union, foundation, association or similar enterprise within the framework of the utilization from public resources and opportunities benefited. Results of audits shall be submitted to the Speaker of the Turkish Grand National Assembly.

(2) Audit demands of the Turkish Grand National Assembly shall have priority.

(3) The Presidency of the Republic of Turkey shall be excluded from this Article.

<sup>37</sup> Aidan Wills et al., *Parliamentary Oversight of Security and Intelligence Agencies in the European Union*, European Parliament, Brussels, 2011.



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4. Setting up a joint committee or a sub-committee for budgetary oversight of the ISFs may lead to institutional resistance/conflict within the Parliament. The subject matter is multi-dimensional, including a budget, professional specificities, and human rights. Some interlocutors suggested that the Security and Intelligence Committee can be separated and an independent Security Committee can be established to deal with security matters including the ISFs. The Office of Speaker can make a final decision in light of the current organizational structure and the needs of the GNAT and the good practices abroad.
5. According to a MP, establishing a subcommittee under the Interior Affairs Committee (SO 3.3. & SO 3.4.) seems to be more appropriate in terms of organizational affiliation of the ISFs. Focusing on budgetary technicality on the one hand and only human rights violations on the other may not address/refer to the institutional responsibility of the Ministry of Interior Affairs directly. Eligible MPs from Plan and Budget and HRIC as well as other MPs can join this permanent subcommittee.



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## ***Strategic Objective 4: Reforming the relations between the Parliament and Executive for strengthening the oversight of the ISFs.***

### **Rationale**

Transparency and accountability are major components of democratic governance. Depending on the form of government the number of parliamentary oversight tools varies. The most common oversight tools include committee hearings, hearings in the plenary, parliamentary inquiry, questions, interpellations, and Ombudsman. While the Parliament may make the Executive accountable during the oversight process, the Executive can make use of parliamentary scrutiny for enlightening the public on governmental procedures and processes as a responsible and responsive government in front of the elected representatives of citizens in an objective way. Effective oversight requires that committees are able to set their own agendas and have the power to oblige ministers and civil servants to appear and answer questions.

The RoP (Article 26/4) states that “upon the agenda to be proposed to the Committee by one third of its members, the committees are invited to a meeting by their Chairperson”. Although this is an imperative clause the Chairpersons decline such proposals in practice. The Speaker has the authority and responsibility to supervise the activities of all units including functional units such as the committees and ought to ask the committees to act according to the RoP.

### **SO4 and its OOs and PPs**

**Operational Objective 4.1.** *Activating the relevant tools which can promote oversight included in the current provisions of the Rules of Procedure (RoP).*

The presence of the deputies of the President of the Republic and ministers primarily, and deputy ministers and high-ranking executives in the committee hearings, are very vital for the reliability and validity of the parliamentary oversight. The RoP (Articles 29, 30, 31, and 32) enables the deputies of the President of the Republic, the ministers, deputy ministers, and high-ranking executives to attend the committee hearings, yet the high-ranking executives do attend only the budget debates (Art. 62). Committees may directly correspond with any ministry and request necessary information from the ministries to conclude the matters referred to them (RoP Art. 41). Moreover, although the current constitutional framework and the RoP do not let



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the Executive (the President of the Republic) initiate a bill except the budget and final accounts, most bills are originally prepared by the executive offices/ministries and submitted to the Parliament by an individual MP or a group of MPs from the majority party. During the committee debates, the MPs cannot make the Executive accountable in person. In this case, the examination of the bill as well as the oversight of the government on the subject matter is done in the absence of government. Finally, in case the President of the Republic, deputies of the President of the Republic, and ministers request to speak out of agenda in extraordinarily urgent circumstances, the Speaker meets this demand (RoP Art. 59). Afterward, each political party group is entitled to speak once for a period not exceeding ten minutes and one MP who is not affiliated with any party group can also speak for a period not exceeding five minutes.

- **Project 4.1.1.** Making a protocol (Code of Conduct) between the Executive and the GNAT regulating the attendance of an authorized representative of the Executive -President or ministers- in the committee meetings on law-making and oversight.
- **Project 4.1.2.** Making a protocol (Code of Conduct) between the Executive / the Ministry of Interior Affairs and the GNAT regulating the obligatory attendance of the relevant minister and his/her aids to the invited committee meetings and make explanations.
- **Project 4.1.3.** Making a protocol (Code of Conduct) between the Executive / the ministries separately and the GNAT in which the maximum duration for the acquiring of documents and information from the relevant public institutions is determined.

**Operational Objective 4.2.** *Developing proactive strategies for parliamentary oversight of the ISFs.*

The effectiveness of public communication on ISFs is dependent upon the wealth and accuracy of the information provided to the public by both government and Parliament. The Parliament should understand both the current state of affairs and the outcome of the decision-making process by the government. The GNAT is often occupied by the daily news. However, the committee's agenda is to a large extent imposed by the chairperson / committee majority (RoP Art. 26) and/or government indirectly. An effective way to overcome time restraints, however, may be to develop a proactive strategy for parliamentary oversight. With regard to the ISFs (in lawmaking and oversight processes), such a strategy can include the following projects:



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- **Project 4.2.1.** Setting the committee's agenda collectively to translate citizens' intentions and needs into issues on the ISFs.
- **Project 4.2.2.** Organizing committee deliberations in which the latest national and international developments on ISFs can be documented via governmental channels and non-state organisations such as universities, think-tanks, etc.
- **Project 4.2.3.** Organizing committee meetings in which recent policy activities carried out by the ISFs shall be presented by the authorized executive representative regularly.
- **Project 4.2.4.** Regularly reviewing the government's latest intentions, developments and lessons learned when updating ISF policy.

**Operational Objective 4.3.** *Establishing and authorizing parliamentary liaison office(s) for the Executive.*

In order to coordinate the communication between the GNAT and the Executive in general a central coordinating body affiliated with the Speaker's Office is necessary to update protocols and provide logistical support. In collaboration with the Legislation and Supervision and Information and Informatics Department a liaison office can be established.

- **Project 4.3.1.** Adopting an administrative decision by the Speaker to establish a *liaison office*
- **Project 4.3.2.** Employing well-trained and professional legislative experts/staff in charge of assisting the committees and the Speaker's Office
- **Project 4.3.3.** Integrating ISFs related documentation into the digital intranet through which the committee members can access by password
- **Project 4.3.4.** Organizing training for legislative staff
- **Project 4.3.5.** Preparing detailed monthly, quarterly and annual activity reports for the public

## **General assessment of the SO4**



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Most interlocutors emphasized that under the present political climate only small steps are possible, but it should be the right ones and incremental changes may be conducive of more interaction between the Parliament and the Executive in the long run. They consider that Parliament should be activated more, e.g. by means of making it possible that questions are asked to the Executive within the committees/plenary sessions.

### **Risks and Measures**

1. Polarization in politics and between the majority and opposition groups in parliamentary processes is the major risk. The Speaker, the party groups, and the Executive through the Supreme Consultation Council of the President which mainly consists of the former Speakers of the GNAT, can create a peaceful stable climate and guide them for an effective relationship between the Executive and the Parliament.
2. Non-attendance of the deputy President and/or ministers to the committee hearings may continue. The committees ask certain questions to the Deputy President and/or the ministers on the subject matter in written and unless the questions are answered fully and properly the legislation shall not be concluded. The RoP shall be amended accordingly.
3. The ministry and/or the ISFs may not present their plans and projects in the relevant committees. The relevant committee in the case of the Human Rights Investigation Committee may set up an inquiry on the subject matter or the Parliament may set up a separate inquiry committee or the relevant committee(s) may call for outside experts to discuss the ISFs operations. The findings shall be validated by asking the Ministry and/or relevant ISF in written communication.
4. According to a MP the Executive must be represented in the committee meetings (SO 4, OO4, PP1) by the minister or deputy minister but not someone (director-general) below that rank.



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## ***Strategic Objective 5. Reorganizing the structure of the parliamentary committees in line with the current governmental system***

### **Rationale**

The President has the power to issue presidential decrees having force of law in exclusive areas of the Executive without the authorization of the GNAT. However, constitutionally, in the case of discrepancy the supremacy of law is essential. During the parliamentary system, government drafts were prepared by experts in ministries and deliberated by the GNAT, in the relevant committees first and then by the Plenary.

In the new system, although the bills have to be initiated only by the deputies, they are the product of Executive in practice. On the other hand, the ministries still support the bills of the majority party deputies. The opposition members' bills have no chance to be debated because the committees' chairpersons who are elected by the majority determine the agenda. In the current presidential system, it is a priority to improve the legislative capacity and autonomy of the GNAT, including initiating bills on and the oversight of the ISFs. To ensure the separation of powers and checks and balances in the legislative and executive relations committees have the pivotal position. According to the Regulation on the Procedures and Principles of Preparations of Legislation (Article 24), which was in effect between 2006-2017, partial or full regulatory impact assessment was prepared for draft laws and decree-laws with a possible annual total impact of certain limits that could be determined by the Executive. A Guideline on Regulatory Impact Assessment (RIA) was prepared and issued with a Circular of the Prime Ministry (2007/6) published in the Official Gazette on April 3, 2007. Similarly, Better Regulation Techniques (BRT) and post-legislative scrutiny (PLS) methods can be initiated to improve the law-making and oversight capacity of the GNAT.

### **SO5 and its OOs and PPs**

**Operational Objective 5.1.** *Enhancing the law making and oversight capacity of the GNAT by introducing and effectively implementing the following techniques: Post legislative scrutiny (PLS), Regulatory Impact Assessment (RIA) and Better Regulation Techniques (BRT) in turn.*





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- **Project 5.1.1.** Preparing Guidelines for each technique
- **Project 5.1.2.** Training legislative experts as well as MPs to improve their knowledge and skills in using these techniques
- **Project 5.1.3.** Preparing annual assessment reports on the quality of improvements

**Operational Objective 5.2.** *Reorganizing the committees' structures in a way to enhance the effectiveness of the oversight in general and specific to the ISFs (Human Rights Investigation, Interior Affairs, Petition...)*

- **Project 5.2.1.** Chairpersons of the oversight committees are elected from the opposition parties
- **Project 5.2.2.** Gender diversity in these committees - oversight committees - shall be balanced
- **Project 5.2.3.** Committees' agenda are made by consensus

**Operational Objective 5.3.** *Reviewing Art. 35 RoP: Parliamentary committees can propose laws, conduct research and interviews, and prepare reports on matters in their field of duty*

- **Project 5.3.1.** Reviewing Art. 56: Reconsider the "Proposal for a New RoP" (Reconciliation Committee, 2008): one or more MPs can make proposals and the signature of 2/3<sup>th</sup> majority of the total number of members of the committee is required to make proposals
- **Project 5.3.2.** In line with OO 1.1. the committees can review reports on their duty/agenda prepared by legislative experts and/or independent experts/CSOs regularly
- **Project 5.3.3.** The committees prepare detailed activity reports - besides statistics - and publicize them on their web pages
- **Project 5.3.4.** Parliamentary committees or committee members may ask the Research Services Division to prepare reports on the topics relevant to the committees' agenda



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## General assessment of the SO5

This SO is linked to the former one and can be fully accomplished in the long term. OOs 5.2. and 5.3. and the relevant Projects require various amendments to the RoP. However, the OO 5.1 can be fulfilled by the decision of the Parliament. Plurality and fair representation in the committees as well as consensus building principle in the committees' decision-making process will enhance the autonomy and capacity of the committees in the long term. The committee can suggest the members of Parliament to make a draft bill. A draft proposed by a committee should be considered as more serious than a draft proposed by an individual MP. However, the committees' communication with the CSOs and the outside experts can be improved by synchronizing with the OO 1.1. and the transparency of their activities can be promoted by e-Parliament mechanisms. Information can come from different sources to the committees: the Ombudsman and also the relevant civil society organizations. It is important that oversight bodies transfer information to this oversight Committee. Information has to be published on the web page. But in order not to cause a security deficit classified information may be excluded provided that the classification of data including secret information shall be defined.

### Risks and Measures

1. Political and bureaucratic resistance to Better Regulation Techniques. Feedbacks provided by the pilot studies on the performance of lawmaking and oversight functions of the GNAT in harmony with the institutional strategic priorities in efficiency and effectiveness; institutional capacity development in Better Regulation Techniques; international benchmarking reports and raising awareness activities can be initiated.
2. Failure in amending the RoP for more pluralism in the committees and legislative autonomy. There is no available measure for this risk which will make the GNAT more rubber-stamp Parliament.



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## 7. The implementation of the Strategic Plan

This recommended Strategic Plan is solidly build on knowledge and experience with the parliamentary system in Turkey. The experts did all which was thinkable to orient it towards legitimate expectations on the one hand and to reasonable pragmatism on the other. Evidently, this doesn't guarantee a simple implementation of it. The implementation of this Strategic Plan can only succeed if the GNAT assumes ownership and accepts its global orientation. This implies an open dialogue and decision-making between all segments of this honourable institution.

Therefore, it is the GNAT responsibility to assess and decide upon the suggested paths of improvement. We all are aware of the fact that all institutions are always in transition and strive for a better expression of the essence their existence, especially parliamentary institutions, which are the cradle of democracy and respect for human rights. This is the reason why we think it is suitable to formulate some suggestions concerning the successful implementation of this Strategic Plan.

1. After each Strategic Plan, an "Implementation Plan" should be formulated. It is up to the proprietors themselves, in this case the GNAT, to formulate such a plan. It seems obvious that this implies that some parts of the Strategic Plan will be reformulated and further polished according to the choices made by the receiver. We are confident that this is the only and desired way to proceed.
2. We suggest to constitute a *steering-committee* to accomplish this task with positive results. Such a steering-committee should dispose of the knowledge to manage this project. It seems not to this steering-committee to make choices with respect to the content of the project, but to accompany the *process of decision-making*. From that point of view, and in accordance with this Strategic Plan, we can only advice the GNAT to outsource this task to a group of experts (e.g. a group of academics, acquainted with public administration and constitutional law with a limited number of representatives of CSOs).
3. Besides such a steering-committee, the core of the implementation project should be carried by members of Parliament itself. It seems to us that a *working group of the GNAT* is best placed to accompany this process with respect to the content of implementation of the Strategic Plan. We can only advice to compose such a working-group in line with the general spirit of the Plan, which means:
  - Including members of the different relevant standing committees implied in the Plan (e.g. the Committee of Interior Affairs; the EU Harmonization Committee, the Human



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Rights Investigation Committee; the Committee of Petition; the Plan and Budget Committee; etc.);

- Including the Ombudsman and a representative of the Turkish Court of Audit, the Directorate of Press, Publication and Public Relations and a representative of the Law Enforcement Oversight Commission affiliated with the Ministry of Interior Affairs in this endeavour;
  - Including as well members of the governing political parties as well as of the opposition, taking the gender-aspect into account;
  - The working-group could elect within its members a *president*, who presides also the steering committee;
4. The *secretariat* of this working-group could be run by a number of legislative experts of the GNAT. It seems advisable that these experts carry out interviews with specific respondents (e.g. members of ISFs) during the process to test the validity and reliability of choices;
  5. It is probably wise to constitute some *sub-working-groups*, in line with the different Strategic Objectives formulated, which report directly towards the central working-group. In this way the workload is less dense and the project can evolve more fluently;
  6. In last instance, it seems necessary that the outcome of the implementation-process is reported to the *plenary assembly* and confirmed by it. This seems to us the most solid base for the actual realization of the project.

An important matter is the timeline which should be set out for implementation of the different Strategic and Operational Objectives. This seems a central key for success. It seems to us that this should be a prerequisite for the start of the implementation.