ASSESSMENT OF THE EXISTING PARLIAMENTARY OVERSIGHT IN TURKEY

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<tr>
<td>AK Party</td>
<td>Justice and Development Party</td>
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<tr>
<td>BRT</td>
<td>Better Regulation Techniques</td>
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<td>CHP</td>
<td>Republican People’s Party</td>
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<td>CSOs</td>
<td>Civil Society Organizations</td>
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<td>GNAT</td>
<td>Grand National Assembly of Turkey</td>
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<td>İyi Party</td>
<td>Good Party</td>
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<td>ISFs</td>
<td>Internal Security Forces</td>
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<td>MHP</td>
<td>Nationalist Action Party</td>
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<td>MoI</td>
<td>Ministry of Interior</td>
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<td>MP</td>
<td>Member of Parliament</td>
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<td>HDP</td>
<td>People's Democratic Party</td>
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<td>RIA</td>
<td>Regulatory Impact Assessment</td>
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<td>RP</td>
<td>Rules of Procedures of the GNAT</td>
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<td>SoE</td>
<td>State of Emergency</td>
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<td>TNP</td>
<td>Turkish National Police</td>
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Introduction

The main objective of this Report is to provide an updated assessment related to the parliamentary oversight of the internal security forces (ISFs) by the Grand National Assembly of Turkey (GNAT) and present policy recommendations that are to be utilized for the improvement of parliamentary oversight in Turkey. In this regard, the Report reassesses the situation after the completion of the second phase of the Project in light of the recent political and structural changes that took place in the role of the GNAT, most importantly the constitutional amendments that changed the government system in Turkey from a dual executive system into a new strong executive presidency.

Before transitioning to the new governmental system of Turkey in 2018, the year 2016 was marked by a failed coup attempt and the state of emergency (SoE) that was declared in its aftermath. Several changes were made in the legislative framework regulating the ISFs in Turkey after the coup attempt in July 2016. The most specific change concerns the newly introduced procedure of directly affiliating the Gendarmerie General Command and Coast Guard Command to the Ministry of Interior (MoI) so as to render the roles and duties between National Police and Gendarmerie consistent. In 2017, Turkey went through a historic constitutional referendum, which resulted in introducing a new governmental system with strong presidential powers along with other structural changes related to the ISFs.

In the light of the recent political and structural changes, the primary aim of the Report is to assess the functions and mechanisms of the parliamentary oversight of the ISFs, identify its weaknesses and strengths under the new governmental system, and produce preliminary thoughts with regard to the ways of strengthening the oversight within the framework of the current constitution, laws and structures.

The first section of the Report introduces the concepts of “internal security forces”, “civil and democratic oversight” and “parliamentary oversight” in Turkey. The second section assesses the constitutional amendments and the Rules of Procedures of the GNAT (RP) that regulate the internal working rules and procedures of the Parliament in Turkey. The third section presents an analysis of (a) the functions of the GNAT related to the oversight of the ISFs, namely legislation, inquiries and budgetary control; and (b) the parliamentary oversight mechanisms of the ISFs. Special importance is placed on the parliamentary committees due to the recommendations provided in the baseline study prepared in the Phase II the project. Hence, in the fourth and final chapter, each parliamentary committee that has mandate over the ISFs and their parliamentary oversight function has been examined in detail. The Report is followed by another report on the “Policy Recommendation for the Parliamentary Oversight of the ISFs in Turkey” for developing a road map for the improvement of parliamentary oversight in Turkey.
Methodology

UNDP National Parliamentary Short Term Expert Fahri Bakırcı and Long-term Democratic Security Governance Expert Özge Genç of the Project penned this Report based on a desk review and baseline study, which was conducted in the second phase of the Project.

The main issues covered by this Report are based on two consultative meetings that were respectively held on November 6-7, 2019 and November 14-15, 2019 in Ankara. The aim of these meetings was to discuss (a) the opportunities and challenges involved in civilian and democratic oversight of ISFs in Turkey and (b) the position and the role of the Parliament in the face of these opportunities and challenges given the transition to a new governmental system in Turkey. In this respect, the chairs of the GNAT Committees and MPs were invited to the consultative meetings as key speakers or participants along with legislative experts at the GNAT, representatives from public institutions, civil society organizations (CSOs) and think tanks, academics and researchers to contribute to the discussions on how to improve the parliamentary oversight of the ISFs.

Findings of the workshop, held on July 20-21, 2020 with the participation of experts and representatives from the GNAT, MoI, ISFs, civil society, and universities, has contributed to the finalization of this Report and the following “Policy Recommendations” Report.
Summary of Findings

“Civilian oversight of the ISFs” can be defined as the multi-layered and continuous follow-up on the ISFs (police, gendarmerie and coast guard) and their activities, quality of services that they provide, and policies they operate under. Effective civilian oversight of the ISFs involves drafting and amending laws and regulations, and developing appropriate mechanisms to ensure that the ISFs use their powers and tools in a manner respecting the law, individual rights and freedoms. The laws and legislations are expected to accord respect for core international democratic principles such as legality, accountability, and transparency as well as subordination to civil authorities. Accordingly, the institutions that have mandate over internal security are controlled, supervised, and overseen by civil authorities. Among them, parliaments play a significant role since they adopt, amend or annual legislation about institutions and mechanisms that define, regulate, and supervise the powers of the ISFs, and keep them under control through parliamentary functions and oversight tools. Parliaments also review and approve the budget and the financial accounts of the MoI. The parliamentary committees and the ombudsman may conduct an investigation and/or inquiry with regard to the complaints regarding the ISFs coming from citizens.

Ideally, the GNAT carries out all of these functions and has mandate for the oversight of the ISFs. By the same token, GNAT may enact, amend or annual legislation that define the legal competencies of the ISFs, and establish mechanisms to attain accountability and encourage the participation and contribution of civil society so as to involve preparation of policies on internal security. In line with its mandate and potential, the GNAT is able to meet effective oversight requirements. Hence, it became more challenging for the GNAT to use its potential with the transition to the executive presidency endowed with extensive executive (i.e. appointing ministers) and legislative powers (i.e. presidential decrees).

Unlike other public officials, ISFs have been authorized to use special powers (stopping, searching, monitoring communication, tapping etc.) and they are also armed, which may have an effect on individual rights and freedoms. It is important that the units and personnel with these powers should be overseen both during the policy-making process and also during their operations and actions.

The amendments in Turkey’s Constitution that adopted in 2017 transformed the government system into a Presidential System, as it is officially called. Under the new system, while the GNAT has become the sole authority to make laws, the President has the authority to issue Presidential decrees with certain limitations. Thus, Members of Parliament (MPs) in the new system are empowered in making laws, of course depending on how much GNAT will build its institutional capacity to this end.

The GNAT has retained its strength with conventional oversight mechanisms despite the repeal of “oral question” and “vote of no confidence” for obtaining information and controlling the executive. The current tools of oversight such as parliamentary inquiry, general debate, parliamentary investigation, written questions, and parliamentary committees, as discussed in this Report in detail, serve the issues to be known by the public through the media. However, these tools could only be used to fulfil their potential by depending on (a) the level of representation of the political parties in the Parliament and (b) the executive’s approach and willingness to respond to and address difference of opinion. For the latter, ministers in the new system are appointed by the President and are no longer present in the Parliament and parliamentary committees. Written questions to the ministers thereby do not underpin any political or legal responsibility towards the GNAT especially if the executive (i.e. the President of the Republic) is affiliated with the majority party or alliance at the GNAT.
As the Parliament is the only competent body to make laws, this requires putting forth more effort so as to develop the capacity of the Parliament. However, it is observed that old habits are still pursued in the law-making process as can be seen in the case when the executive takes the initiative to draft laws and then bring it to the Parliament through the MPs of the affiliated party. Hence, the new system's potential for overcoming the challenges for GNAT will be an indicator of how effective and successful GNAT's oversight of the ISFs will be. However, it is noted that less has been done to change the operation of the GNAT (i.e. Rules of Procedures of the GNAT) in addition to such a sizable constitutional amendment bringing major changes to the government system towards empowering the legislature organ.

Parliamentary committees play important role for oversight of the ISFs as they are direct oversight organs and are in the best position to get assistance from the independent oversight bodies. Security sector issues are dealt in different parliamentary committees responsible for internal affairs; foreign affairs; constitutional affairs; justice; human rights; security; intelligence, defense; petition and the budget. They may investigate specific issues and publish their findings in reports that are sometimes made public in the interest of overall transparency. Just like in many democratic countries there is also a parliamentary body for the oversight of ISFs which allow for more in-depth democratic oversight of the sector and its agencies. Human Rights Inquiry Committee has always been and still is a very important instrument of oversight of the ISFs as far as its mandate is concerned. This Committee acknowledges and works under the framework of the human rights defined in the Constitution of Turkey and in various international treaties and declarations such as the Universal Declaration of Human Rights, International Convention on Civil and Political Rights, European Convention on Human Rights, etc. This committee has a very special place in Turkey with regards to the prevention of torture and ill treatment in places where people deprived of their liberties. However, the Committee does not review the legislations if they are not primary Committee for the task due to the its limited number of staff.

Although all the standing committees of the parliament may have a role to play in determining a public policy concerning ISFs, the Internal Affairs Committee and Justice Committee are the main actors with regard to this policy. The Petition Committee examines the requests and complaints of the citizens including the ones against ISFs. In conclusion, although the committee has a role to play in the oversight function of the parliament, it is not as effective as the Human Rights Inquiry Committee, especially in terms of the oversight of the ISFs. The Plan and Budget Committee is a crucial committee in terms of the budgetary aspect of the ISF oversight. The European Union (EU) Harmonization Committee may have important functions in regards to harmonization of Turkey’s legislation with the EU acquis. The Committee then provides and translates the EU acquis, and helps the other Committees internalize EU legislation including the once related to ISFs. The most important challenge of the Committee in terms of legislation is that it has not been given the task of operating as a main committee. In other words, the only authority of the Committee in the field of legislation is to express its opinion to other committees when requested.

1.1. The Internal Security Forces in Turkey

Under the new governmental system in Turkey, which entered into force in July 2018, establishment, organizational structures, duties and powers of the ministries are regulated in the Presidential Decree No.1 that was published in the Official Gazette on 10 July 2018. Chapter 6, Section 8 of the Presidential Decree No.1 provides details regarding the power and duties of the MoI and it is noted that while most of the duties and power of the MoI have remained unchanged under the presidential system. However, new departments, offices and policy councils have been established under Presidency and some of them has mandate on the internal security such as “General Directorate of Security Affairs” and “General Directorate of Law and Legislation”. Moreover, Presidential Policy Council on “Security and Foreign Policy” and “Legal Affairs” are considered to be related to the ISFs.

In charge of maintaining law and order across Turkey, MoI achieves its mission through three main ISFs:

- Directorate General of the Turkish National Police, which is responsible for the safety of urban areas, airports, and traffic;
- Gendarmerie General Command, which is in control of security in rural areas and external security of prison facilities;
- Coast Guard Command, which oversees Turkey’s coastline.

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<th>Presidential Decree No:1, Date: 2018</th>
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<td>Laws</td>
<td>General Directorate of Security, (Law No: 3201, Date: 4/6/1937)</td>
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Table 1. Laws and decrees concerning the MoI and its affiliated security units.

The Turkish National Police (TNP) consists of a central organization, and divisions and offices in 81 provinces. According to the “Law on Duties and Powers of the Police”, the duties and power of the TNP are as follows:
• Maintaining public order,
• Providing security of persons and properties,
• Protecting personal property and public order,
• Detecting, arresting and transferring offenders and case evidence to the competent judicial authorities,
• Apart from the administrative duties, performing judicial duties assigned by laws, regulations and government acts,
• Preventing crime in order to maintain public safety and order.

The organizational structure of the Gendarmerie General Command consists of a central organization along with provincial organizations that operate directly under the central organization. In accordance with the Law on Organization, Duties and Power of the Gendarmerie, Gendarmerie performs three duties in administrative, judicial, and military areas.

Administrative Duties:
• Maintaining and protecting public order,
• Preventing, monitoring, and investigating smuggling,
• Taking and executing necessary measures for prevention of crime,
• Guarding the prison facilities,
• Executing non-military and non-judicial duties assigned to the Gendarmerie as well as other laws for maintaining public order.

Judicial Duties:
• Carrying out procedures specified in the law regarding committed offences, and performing relevant judicial services.

Military Duties:
• Performing military services assigned by laws and presidential decrees.

Turkish Coast Guard Command is assigned and authorized to maintain, protect and monitor maritime security and public order as well as to prevent any offences that might be committed along the Republic of Turkey’s coastline. As a general armed law enforcement force at seas, affiliated to the MoI, Coast Guard Command’s duties and mandates have been determined with the Law on Coast Guard Command and the Regulation on the Organization, Duties and Powers of the Coast Guard Command. Within this framework, Coast Guard Command has three main duties. These are “Administrative Duties”, “Judicial Duties,” and “Military Duties”. Turkish Coast Guard Command is entrusted with the power and the responsibilities that Gendarmerie and TNP have while carrying out these duties.

Until 2016, the Gendarmerie and Coast Guard were described as military organizations. They carried out military duties and took on military responsibilities in addition to ensuring internal security in the designated geographical areas, and they were placed under the authority of the Turkish Armed Forces/General Staff. After the coup attempt in 2016, structural changes have been made and with the Decree Law No. 668 dated July 25, 2016 and published during the SoE, the Gendarmerie General Command and Coast Guard Command have been affiliated to the MoI. They are now regarded as part
of the term “general law enforcement” and are subject to same disciplinary rules with the TNP. In addition, with the subsequent Decree Law No. 669 dated July 31, 2016, Turkey’s land, naval, and air forces were affiliated to the Ministry of National Defense. These changes have been seen as part of a major demilitarization attempt strengthening civilian rule and oversight in the contemporary history of Turkey. This step is to be complemented by improving parliamentary oversight of the ISFs in Turkey for democratic oversight.

1.2 Parliamentary Oversight of the ISFs in Turkey

Although the term “civilian oversight of the ISFs” does not have a single internationally recognized definition, for the purposes of this Report, it can be defined as follows: Multi-layered and continuous follow-up on the ISFs (police, gendarmerie and coast guard) and their activities, quality of services they provide, and policies that they operate under. Effective civilian oversight of the ISFs involves drafting and amending laws and regulations and developing the appropriate mechanisms to ensure that the ISFs use their powers and tools in a manner that respects the law, individual rights and freedoms. The laws and regulations are expected to accord respect for core international democratic principles such as lawfulness, accountability, and transparency as well as subordination to civil authorities. Accordingly, the institutions that have mandate over the internal security (i.e. the police, gendarmerie and coast guards) are controlled, supervised, and overseen by civil authorities and they become lawful, transparent, accountable, and open to monitoring by the public and its representatives.

The term “civil authorities” that has been mentioned here includes the Parliament, the government, the judiciary, and independent monitoring bodies in some countries (i.e. national human rights institutions, ombudsman, independent law enforcement complaint mechanisms, etc.). Among these, parliaments as representative bodies and parliamentary committees play a significant role since they represent the people and public interest. Parliamentary oversight of the ISFs is a part of the Parliament’s constitutional responsibility, and an exercise of its right to hold the executive accountable. Parliaments make laws about institutions and mechanisms that define, regulate and supervise the powers of the ISFs, and keep them under control through parliamentary functions (i.e. written questions, parliamentary investigation, debates, and off the agenda speeches) and oversight tools. The Parliamentary committees and the ombudsman may conduct an investigation and/or inquiry with regard to the complaints coming from citizens. Parliaments also review and approve the budget and the financial accounts of the MoI. Parliaments may enact or amend laws that define the legal competencies of the ISFs and establish mechanisms to attain accountability and encourage the participation and contribution of the CSOs so as to prepare policies on the internal security.

Unlike other public officials, ISFs have been authorized to use lethal force and have been endowed with specific powers (stop and search, interception of communications, phone tapping etc.), which may seriously violate the rights and freedoms of individuals. It is important that the units and personnel endowed with these powers should be controlled both during the policy-making process and also during their operations and actions. The oversight of ISFs, which means protecting and promoting human rights and freedoms, is therefore of utmost importance.

By means of an effective parliamentary oversight, parliaments use the “civilian oversight” to function as “democratic oversight”. In fact, parliamentary participation determines the difference between civilian oversight and democratic oversight or good governance and democratic governance. The Parliament performs a crucial democratic function by overseeing the actions and transactions of the
executive body on behalf of the people and by ensuring that the executive remains within the legal limits through establishing public policies.

The effective implementation of the parliamentary functions (legislation, oversight and budgetary control) in the security sector can be challenging. Firstly, secrecy of information and classified items of the security sector budget are usually addressed separately by different mechanisms. Secondly, internal security sector is an area that requires a great deal of expertise by the MPs and other parliamentary staff. Staff support and access to information are two critical factors for an effective and democratic oversight of the ISFs. In some countries, parliaments set up specific committees, sub-committees or liaison offices to address the internal security forces (i.e. the police) and their policies. Thirdly, party politics, and the level and quality of representative democracy in a country may obstruct effective oversight.

In many democratic countries, external bodies complement parliaments’ oversight role. Hence, parliaments play an important role in legislating, supervising, and evaluating these oversight institutions for the ISFs.

In Turkey, although security-oriented political priorities in Turkey’s region make it difficult to strike a balance between security and freedoms, improvement of the parliamentary oversight of the ISFs might bridge the gap between the security of the state and humans. This means that decisions and policies regarding internal security will not be adopted at the expense of fundamental rights and freedoms but they will be adopted in a transparent, accountable and participatory manner under the scrutiny and surveillance of the public through its representatives in the Parliament.

Members of the parliament (MPs) at the GNAT are expected to take a role in overseeing the ISFs and internal security policies on behalf of the people who elect them as their representatives. Internal security is a critical area for a democratic state that cannot and should not be in the hands of the executive. Hence, the potential and limits of the parliamentary oversight in the new governmental system are analyzed in the following sections.
2. Constitutional Amendments of 2017 and the Rules of Procedure of the GNAT

This chapter evaluates the constitutional amendments of 2017, which led to a change in the governmental system in Turkey, and the role and powers of the Parliament.

In January 2017, a legislative proposal consisting of 18 articles for amending the Constitution was approved by a qualified majority of the GNAT. The Law No. 6771 amending the Constitution was later submitted to a referendum, as a result of which it was approved on April 16, 2017. Following the completion of the deliberation in the Constitutional Committee of the GNAT, the parliamentary voting process began. Provided that a law regarding the amendment of the Constitution is adopted by a three-fifths (which was 330 before 2018) or less than two-thirds (which was 367 before 2018) majority of the total number of MPs and is not sent back by the Speaker of the GNAT for reconsideration, it shall be submitted to referendum. Only a law on the constitutional amendment adopted by a two-thirds majority of the MPs can enter into force upon the publication of the law by the President.

The final vote to enact the amendment passed with 339 votes; therefore, according to the Law on Referendum with regard to the constitutional amendments, a referendum took place on April 16, 2017. The debates in the Parliament and adoption of the constitutional amendments took place during the SoE, which began on July 21, 2016 and was repealed on July 19, 2018.

This amendment package was a defining moment for Turkey’s governmental system, which ensured a transition from a parliamentary to a new system called Presidential System with a strong executive power. The constitutional amendments were to enter into force at different dates. The first set of amendments entered into force following the date when the President took office, the second set of amendments entered into force after the schedule for the presidential and parliamentary elections was announced by the Supreme Board of Elections as June 24, 2018; and the third set of amendments entered into force when the results of the referendum were promulgated.

On July 7, 2018, the 27th term of the GNAT began and has continued until today. The new governmental system officially entered into force on July 9, 2018.

From a chronological perspective, the transformation of the governmental system commenced with the 2007 Referendum, which paved the way for electing the president by popular vote instead of by the Parliament. The “Presidential System,” as it is officially called, has strengthened the power of the President as the sole executive body. The system abolished the Prime Ministry and the cabinet. It has further granted the President the power to appoint or dismiss the ministers and high rank officers.

In addition to these, in the current system, which has introduced a very strong and party-affiliated President, the Parliament has not been strengthened to act effectively and actively as a form of checks and balances, which is a crucial element of democratic Presidential systems in the world. According to the 2019 European Union Progress Report on Turkey, the new presidential system has significantly curtailed the Parliament’s legislative and oversight functions. Starting from July 2018 until May 2019, the GNAT has adopted 17 items of legislation including the legislation on controversial changes to the RP (discussed below).
A strong Parliament could have been achieved with a new RP and its robust implementation to build a potent system of checks and balances and oversight. However, the subsequent amendments made in the RP do not reflect such a motivation.

Furthermore, the law on political parties and the electoral system has not yet been substantially modified following the adoption of the current system. The weakness of the Parliament continues while the executive has been strengthened with the party leaders maintaining their strong positions, and party discipline and hierarchy continuing to be intact. The preferences of the MPs cannot be considered separately from their political parties. The political career of an MP is largely dependent on the party leadership since MPs are elected by their rank in candidate lists provided in each electoral districts as prepared by the party leaderships and MPs generally do not step out of the party line.

The Presidential system is still in its early stages. Therefore, it is still too early for an overall evaluation regarding its effects on the role of the Parliament. Hence, the ability of the presidential system to provide an effective democracy and democratic institutionalization is largely based on the democratization of the political parties and election system as well as the possibility of strengthening the legislative and oversight roles of the Parliament. The Parliament is currently trying to adapt itself to the new system of government, which provides an opportunity to draft a new RP in this transitional period as long as the political parties bring this issue to the attention of the Parliament and public discussions.

2.1. An Overview of the Constitutional Amendments of 2017

Turkey has adopted a new governmental system with the Constitutional Amendment Law No. 6771 on April 16, 2017. The prominent feature of the new governmental system is the new role that is given to the executive. The Presidency is the only executive organ entitled to exercise executive power, and to function in conformity with the Constitution and laws (Articles 8 and 104 of the Constitution). The Cabinet of Ministers, which used to be led by the Prime Minister, and was dependent on the parliamentary majority, was abolished. In the new system, the President of the Republic (1) is the head of the state, (2) is the sole executive and (3) has an important share in the legislative power through presidential decrees.

Neither the President nor the ministers are members of the Parliament under the current system. The President is endowed with the power to appoint the deputy president(s) and the ministers without obtaining parliamentary approval, and they cannot undertake a role in the Parliament. If an MP is appointed as a deputy president or minister, s/he loses his/her membership (Amended Article 106/4 of the Constitution). They also do not need the acquire confidence vote of the parliamentary majority to stay in office. They act like state secretaries rather than a minister since they have no political responsibility to the Parliament.

The President has become the central actor in other areas including the appointments and dismissals of high rank public officials, establishing, organizing and abolishing the functions and powers of ministers, the board of the State Supervisory Council and the Secretary General of the National Security Council. The President is also endowed with the authority to ascertain national security policies and take necessary implementation measures (Article 104 of the Constitution).

The President also has an important role in the legislation because s/he may issue presidential decrees on matters regarding executive power. The President may issue presidential decrees in certain areas defined in the different articles of the Constitution without any prior authorization of the Parliament.
For example, the organization and duties of the General Secretariat of the National Security Council can be regulated by a presidential decree.

With these amendments, the separation of powers, the legislative-executive relationship, and the legislative function of the executive have been redefined, and the oversight mechanisms of the Parliament have become more critical than before.

In the Parliamentary system, the President was asked to resign from the political party s/he was affiliated with (if any) and his/her membership of the GNAT was also terminated. The related clause (Article 101) in the Constitution was amended in 2018 to allow for the continuance of his/her affiliation with a political party, however, termination of his/her membership of the GNAT still remains.

However, it appears to be difficult to distinguish the legislature and executive in cases where the President is also a member and/or the head of a political party. This sort of a relationship between a President and a political party might weaken the impartiality of the President, which is an underlying characteristic of the parliamentary system. Moreover, in this situation, the President can also control the Parliament in case a political party chaired by the President holds the majority of the seats in the Parliament. In other instances in which the political party or the party alliance that the President is affiliated with does not have the majority in the Parliament, the system may run into a deadlock.

However, as a result of separation of powers, the amendments made in the Constitution have made the GNAT the sole authority to enact laws, which are eventually promulgated by the President (Article 104 of the Constitution). The mandate to propose a law was previously given to MPs and the Council of Ministers. Although this amendment fosters the role of the Parliament in legislative process, no side regulations have been put into force regarding the role and power of the Parliament, especially in gathering information and carrying out independent decision-making and policy-making.

On the other hand, it should be noted that there is no policy-making legislature in the world except the United States Congress. The legislature in parliamentary system has a limited role in policy-making, and adopt laws are to a great extent introduced by the executive. In practice, the executive often continues to be effective through their MPs in the Parliament. The executive generally studies and prepares the draft proposals through related ministries, and sends them to their political party group in the Parliament to be signed by MPs who are members of the majority group.

Although the executive cannot formally introduce a draft law in the new system, in which the legislature is dominated by the President, through his/her political affiliations, s/he can continue to exercise power to introduce draft laws. Although the parliamentary committees are not able to introduce a draft law or discuss a matter that is not addressed to them (explained below in the relevant section), an MP or MPs can propose a law which will come before the relevant committee of the GNAT for review. In practice, the number of laws adopted by the Parliament after the coming into force of the constitutional amendment in July 2018 has decreased. Moreover, it is likely that the MPs will not take any initiative unless there is a proposal from the executive regarding the oversight of the ISFs.

In the previous system, the laws sent back (not promulgated) by the President to the Parliament for reconsideration could be adopted by the Parliament with a simple majority of attendees in the General Assembly. In the new system, however, an absolute majority (301) of the total number of members (600) needs to be attained for the adoption of the law sent back by the President. The President may apply to the Constitutional Court for annulment by stating that the laws passed in the Parliament are unconstitutional. With the veto power bestowed on the President, s/he has the power to veto any laws s/he considers inappropriate and the Parliament needs an absolute majority of all MPs to override
the veto. As discussed above, in addition to the veto power, the President does not need a prior authorization of the GNAT to issue presidential decrees. According to the Venice Commission’s opinion on amendments to the constitution, these two issues lead to doubts that the mechanisms to prevent the President from dominating the legislative domain of the GNAT would function in practice.

Another important component of the new constitutional system is the presidential decrees. The constitutional amendments endow the President with the power to issue presidential decrees on matters regarding the executive power (Article 104/17 of the Constitution). The presidential decrees differ from “the decrees having the force of law” issued by the Council of Ministers under the previous system. This was because the GNAT used to have the authority to empower the Council of Ministers to issue decrees having the force of law on certain matters. The authorization law would define the purpose, scope, and principles of the decree having the force of law, the validity period of the authorization law, and the number of decrees that can be issued within the same period. Under the current system of government, there is no need for an authorization law enacted by the GNAT for presidential decrees. Besides, these decrees do not need to be submitted to the Parliament for approval.

The quorum needed for the adoption of laws sent back to the Parliament by the President increased. In the previous system, the President may send back the laws that s/he found inappropriate to the Parliament for further discussion. The goal of this authority granted to the President was to attract the attention of the Parliament and to reconsider the law in question in order to ensure that it is flawless and is in accordance with the Constitution. In case the Parliament adopted the law that had been sent back for reconsideration through a "simple majority" without any amendment, the law was to be promulgated by the President. However, under the new system, these laws will be promulgated if they are adopted by the absolute majority of the Parliament meaning that the executive body holds the authority to consider the decisions of the legislative body.

The Constitution has foreseen some restrictions that have been placed on the exercise of the power to issue presidential decrees (Article 104). Accordingly:

- The fundamental rights and individual rights and duties included in the first and second chapters, and the political rights and duties listed in the fourth chapter of the second part of the Constitution shall not be regulated by a presidential decree.
- No presidential decree shall be issued on matters that are stipulated in the Constitution to be regulated exclusively by law.
- In case of a discrepancy between provisions of presidential decrees and laws, the provisions of the laws shall prevail.
- A presidential decree shall become null and void if the GNAT enacts a law on the same matter. However, the term "on the same matter" may need to be clarified by the Constitutional Court. A broad or restrictive interpretation of this term may lead to a broader application of the power given to the President in Article 104 of the Constitution.

The constitutional control of the presidential decrees is vested in the Constitutional Court. So far, no landmark judgment has been taken by the Court as regards the limits of power to issue presidential decrees given to the President.

In a SoE, which can be declared merely by the President her/himself, s/he has the power to issue decree law (Article 119 of the Constitution). These decrees are to be discussed in the GNAT and require
the approval of the GNAT. Otherwise, they automatically cease to be effective within three months following their publication in Official Gazette. According to the Article 148 of the Constitution, the presidential decrees issued during a SoE cannot be subject to a constitutionality review by the Constitutional Court.

The President is endowed with a very strong budgetary power. The President presents draft budget and final account law to the GNAT (Article 161 of the Constitution) and the proposal is discussed and accepted by the GNAT. If the budget proposal fails, the budget of the previous year is implemented with an increase based on the revaluation rate until the new budget law is enacted. In the previous system, the budget was submitted by the Council of Ministers. However, the temporary budget and the implementation of the previous year’s budget with an increase were not possible. If the budget proposal fails, the government has no right to adopt a new budget and as a requirement of parliamentary traditions, government has to resign. The failure to pass the budget on February 14, 1970 led to the resignation of the government.

The new system put an end to the face-to-face oversight in the Parliament. The current system has repealed the right of MPs for posing oral questions to the executive as a means of obtaining information and control, and revoked motions of censure and votes of confidence. The amended law only provides written questions to the deputy presidents and ministers (Article 98 of the Constitution). The underlying reason is that the ministers are not necessarily represented or required to be present in the Parliament as they can no longer hold two titles as an MP and a minister at the same time. Ministers are appointed by the President and they are thus directly accountable to him/her.

Although parliamentary committee meetings are open to them and they have the right to take floor there, they cannot be forced to attend these meetings. They may be present and express opinions on behalf of the Executive at the Plenary during the debates on budget bill and final accounts bill. They may attend the plenary sessions in order to give a briefing upon the invitation by the Parliamentary Speaker in the SoE. In case, they request to speak off the agenda, the Speaker has to meet this demand and they have the right to take floor in these cases.

The criminal responsibility of the ministers has been rearranged in the new system. The constitutional amendments have brought additional changes regarding parliamentary investigations. In case of a consensus among the three-fifths of its total members, the Parliament shall consider and decide to initiate an investigation with regard to the allegations of an offence by the President, deputy presidents, and ministers related to their duties (Articles 98 and 105 of the Constitution). In fact, the ministers have no political responsibility because they are only senior civil servants. They may be removed from office upon the will of the President. When compared with the previous rules, it can be seen that submitting a motion of investigation is not so easy. In the previous system, it sufficed to have the signatures of just 1/10 MPs (it was 55 MPs before 2018) to submit a motion of investigation whereas it is now necessary to find an absolute majority of the Parliament (300 MPs). In order to send a minister to the Supreme Court, it is necessary to find two-thirds of majority in the Parliament (400 MPs), which is not very easy. Therefore, it can be concluded that the investigation mechanism, contrary to how it looks, has been arranged to protect the ministers against any accusations of an offence related to their duties. However, although the ministers can no longer be an MP, they can still benefit from parliamentary immunity.

An important component of the amendments made in 2017 are the concurrent dissolution of the Parliament and the President. The Parliament may decide to renew the elections by three-fifth
majority of the total number of its members which was a simple majority of the attendees before 2018. In this case, the parliamentary election and the presidential election are held together. Should the President decide to renew the elections, the parliamentary election and the presidential election are held together (Article 116 of the Constitution). It seems that this article aims to provide an overlap between the political party of the President and majority party in the Parliament. There is only one exceptional case in which parliamentary and presidential elections are held separately. If the presidential office becomes vacant for some reason and there is more than one year for the parliamentary election to be held, then presidential election has to be made separately. (Constitutional amendments of 2017, Article 106/2)

With the transition to the new system, a harmonization process has also began based on removing all legal regulations referring to the Prime Minister or Council of Ministers without intervening the areas reserved for statutory legislation by the Constitution.

2.2. Amendments in the Rules of Procedure (RP)

In line with the constitutional amendments, the RP of the GNAT was firstly amended on July 27, 2017, and secondly on October 9, 2018. Despite the fact that two separate amendments were made to the RP following the constitutional amendments of 2017, the first amendment had no direct relationship with the new system.

The first set of amendments to the RP was generally directed at restricting the opposition’s various means of blocking legislative process according to the 2018 European Union Progress Report. Amendments to RP were jointly put forward by the AK Party and its political ally Nationalist Movement Party (MHP) in July 2017 without any involvement of the other political parties. These amendments bring shortened procedures and interventions by MPs and/or party groups, penalties for MPs who bring any protest-related materials into the Parliament, and the possibility of temporarily suspending a MP who makes insults and accusations against the history of the Turkish nation, makes statements in violation of the first four articles of the Constitution in relation to the integrity of the Turkish state, its republican form, its anthem and symbols, or uses names and definitions for the administrative structure of the Republic of Turkey that conflict with the Constitution and Turkish legislation. The second set of amendments to the RP in 2018 attempted to eliminate the technical incompatibilities between the new Constitution and the RP. In that regard, certain concepts including but not limited to “the council of ministers”, “vote of no confidence”, “government”, “decrees having the force of law,” “motion of censure”, and “oral question” were removed from the RP.

Looking at the overall picture, it can be argued that less has been done to reform the RP despite the fact that such a comprehensive constitutional amendment, which leads to major modifications in the governmental system, requires a new RP that will empower the Parliament and enable the effective functioning of the Parliament in line with the new system in addition to fostering checks and balances. The amendments to the RP were jointly put forward by the majority, the ruling AK Party and the MHP alliance in July 2017 without any involvement of the other political parties.

The changes in the RP have little relevance in terms of enhancing and qualifying the new role of the Parliament in law making. The 2018 EU Progress Report highlights the risk of limiting the freedom of expression of MPs in contravention of the principle of parliamentary non-liability, which is an essential element of parliamentary immunity.
2.3. Strengths and Weaknesses of the GNAT in the New System

In line with the abovementioned amendments in the Constitution, the GNAT has certain strengths and weaknesses under the current system that deserve further attention for an analysis.

2.3.1. Strengths

The GNAT retains some of its strengths from the previous system and has new strengths:

- The GNAT maintains its strength to adopt laws and holds the authority and function to lay down rules and principles, and the framework of policies by acts of law. It is still the only authority to propose and make laws as the Council of Ministers is no more entitled to prepare draft laws and decrees having the force of law. From the side of the executive body, the President has the authority to issue presidential decrees with certain restrictions as mentioned above. These have to be clarified by the Constitutional Court.

The legislative role of the GNAT to become the sole authority to draft laws has been strengthened with the introduction of the presidential system. The potential of the GNAT to become more effective has also increased. The GNAT has the power to turn any issue it deems important or incomplete into a draft law. The system thus makes MPs stronger vis-à-vis their previous positions. However, there is a need for capacity development and democratization of the political party system for GNAT to enable the MPs to use this power effectively.

In the previous system, the Prime Ministry used to bring all ministries together, exchange ideas, finalize the draft law, and send it to the Parliament. As is the case for all the Westminster democracies, this mechanism used to bypass the GNAT, which undermines the legislative initiative of the GNAT. In the current system, the Parliament can still appeal to ministers for technical information, however, as being the sole authority to enact and amend laws, the GNAT has to build its own institutional capacity for law making.

- The GNAT has its strength with conventional oversight mechanisms. The current tools of oversight that the GNAT has play a vital role in the oversight of the executive power. The parliamentary committees are effective and functional, and are open for further development. The positive sides of GNAT committees can be counted as (1) their level of expertise; (2) their potential to assume a supra-party approach; (3) their established place in the GNAT tradition, and (4) being constitutional institutions. These committees have the opportunity to establish and enact public policies to determine the legal framework for the security sector and strengthen parliamentary oversight on the ISFs. In the current system, they also have the potential to become more influential.

Besides, the Parliament can obtain information on administrative and executive matters by using parliamentary inquiry, general debate, parliamentary investigation, and written questions (Article 98 of the Constitution).

- The Parliament has further strengths with its pluralist representation and composition of diverse political parties representing diverse political views and approaches. All the functions of the Parliament that are discussed in the following chapters could be used to their potential depending on the level of representation of the political parties in the Parliament. Elections are still a major manifestation of public will and power.
2.3.2. Weaknesses

Certain additional weaknesses of the Parliament in the new system vis-à-vis the former one can be discussed as follows:

- The new governmental system has repealed the right of MPs to use two important mechanisms of oversight: obtaining information through oral questions and vote of no confidence. Oral question served the public to know the demands and criticisms during the plenary session of the Parliament. The vote of no confidence was the main control mechanism of the GNAT over the executive. The only means of inquiry remaining in the new system is written questions, which could be added to the strengths of the Parliament. However, it is also criticized that written questions are not replied or not replied on time.

- Ministers are no longer responsible to the Parliament and are only accountable to the President. Written questions to the ministers thus cannot underpin any political or legal responsibility for the GNAT.

- The problems of the law-making processes are mainly related with the lack of capacity. Firstly, MPs are not equipped enough to draft laws and present them to the Parliament. Secondly, there is no office specialized in drafting laws on a variety of policy topics in the Parliament. Thus, it can be inferred that the capacity of the MPs with regard draft laws depends on the expertise of the experts appointed by the GNAT or on the consultants appointed by the MPs. However, there is a need to establish an office within GNAT office specialized in drafting laws.

3. Assessment of the Parliamentary (GNAT) Oversight of the ISFs

Parliamentary oversight of the ISFs can be classified under three major subheadings: Legislative, oversight, budgetary control, and other related functions such as the election of the ombudsperson and the Court of Accounts.

3.1. Legislative Function

Parliamentary oversight requires parliaments to legislate on security issues as a reflection of people’s will, and in so doing it develops and provides a framework for the security policies and strategies. It also has a significant role in allocating the budget for internal security. The GNAT approves, amends and/or rejects a comprehensive set of principles for government and ISFs that shape internal security policies.

Legislative and budgetary functions of the GNAT are embodied in Article 87 of the Constitution. The GNAT is endowed with the authority to enact new laws and also has the power to review and amend the existing laws that pertain to the internal security sector. The GNAT can also review whether the international obligations related to the internal security are reflected in the domestic law. The laws can be adopted by a simple majority of those present at the General Assembly, however the quorum for decision cannot be less than one plus a quarter of the total number of members. This means that in the current Parliament, the eventual decision cannot be taken with less than 151 MPs, a quarter of the total number of 600 MPs.

Prior to the constitutional amendment of 2017, the GNAT enacted law proposals it received from (a) the Government (the Council of Ministers) and (b) Individual MPs. In the new system, as a continuation of the previous system, the individual MPs in the Parliament are engaged in making laws. They ideally
prepare a draft with contribution from their advisors and inside/outside experts. This draft law is then submitted to the Speaker of the GNAT. The Speaker transfers the draft law to the relevant committee(s) and the president of the committee(s) accepts or rejects the draft law regarding its inclusion in the agenda of the committee. However, president of a committee also takes the decision as to when this law draft will be put on the agenda. Currently, there are no examples of draft laws discussed in the committees that are proposed by the MPs from the opposition. In the opening of the new legislative period in October 2018, an MP from the opposition shared that the political parties at the GNAT submitted a total of 2081 proposals since the beginning of the 27th legislative term. Out of 2081 proposals, 1855 of them were submitted by the opposition parties and none of them were enacted and they were not even included in the agenda of the General Assembly of the GNAT and/or its committees.

Moreover, according to the RP of the GNAT, chairpersons of the committees shall call a committee for a meeting upon the proposed agenda of one-third of its members. However, this rarely happens as the current representation in the committees is in favour of the majority party and its political ally. The level of consensus in GNAT has often been very limited.

Under its legislative function, the GNAT also adopts laws approving the ratification of the international treaties (Article 90 of the Constitution). Thus, the GNAT has the power to discuss needs and policies while approving international treaties related to the internal security sector. The GNAT also has the power to enact new laws or amend existing ones to ensure that international obligations related to the security sector are met.

Although the Parliament has the power to be effective in the fields of oversight and legislation, it needs to have a will and a capacity to use its power and fulfil its duties. In a regulation issued by the Prime Ministry in 2006 (the Regulation on Procedures and Principles of Preparing Legislation), there were important rules regarding good law making. These rules were, (1) Regulatory Impact Assessment (RIA), (2) Better Regulation Techniques (BRT) and (3) Civil Participation.

RIA is a type of cost-benefit analysis that intends to measure social cost and social benefit of a new regulation that is under debate. There are two types of RIA: (1) Ex ante RIA, (2) Ex post RIA. Ex ante RIA is an essential part of policy formation stage that aims to measure the probable social cost and social benefit of a draft bill. Ex post RIA is an important part of policy evaluation stage whose aim is to evaluate the realized social cost and social benefit.

BRTs are prerequisite of a fundamental principle of law “ignorance of law excuses no one”, which means that every ordinary citizen has to know the promulgated law. Hence, the other side of the coin is to enact laws that are conceivable for all the ordinary citizens. In essence, the highly complex and vaguely formulated laws are not laws considering that people have a hard time grasping them.

So, it is the duty of the legislature to prepare laws that are foreseeable, accessible, and compatible with the legal certainty principle. The techniques aiming to accomplish this result can be defined as the BRTs.

3.1.1 Parliamentary Research and Expertise

The Parliament and the committees need to have capacity and expertise to oversee the ISFs and internal security policies to be able to conduct a robust oversight of the ISFs. This expertise in the GNAT can be provided by inside and outside experts.
Legislative experts in the GNAT are employed in three units. These are (1) the Directory of Foreign Relations, (2) the Department of Research Services, and (3) the Department of Laws and Resolutions.

The experts in the Department of Research Services do not have any function related to legislation and the oversight function of the GNAT. They just provide administrative and technical support to the MPs on issues that they request. They provide the necessary information, publications, and documents to the committees and MPs upon request, and the information they provide is shared on Dspace@TBMM (available at https://acikerisim.tbmm.gov.tr). Although these experts have different tasks in specific fields, they are not responsible for a specific policy area such as security sector unless they are required to conduct research about a specific issue pertaining to the internal security forces, institutions, or policies. These experts are divided into groups depending on their fields of expertise such as political science, law, and economics. They may prepare reports, and provide documents and information upon the request of a committee or of an MP.

The third group of legislative experts works at different departments of the Department of Laws and Resolutions. These legislative experts (a) are appointed to all parliamentary committees. There is at least one legislative expert to organize committee meetings, write committee reports, and give advice to the committee chairperson and committee members. But these legislative experts also have no expertise on any specific field with regard to internal security policies, institutions, forces, and their budget. For example, the legislative expert of the Committee on Interior Affairs may write a report concerning a law negotiated in the committee, but s/he cannot provide his/her expertise on security issues. These experts are responsible for preparing a proper report in compliance with RP. They (b) are appointed in the Directory’s Research Department. These experts may prepare draft laws upon the request of MPs. They also have no expertise in a specific field such as security sector. They are just familiar with better regulation techniques, and they try to prepare draft laws that are not in contradiction with the Constitution and other legal documents. They are not encouraged to provide insight on the content since the content is political. They (c) are appointed in the Oversight Department and they are expected to check whether the oversight motions are compatible with the internal rules, especially with the RP. They are (d) appointed to work in the Plenary to assist the Speaker and provide technical contribution to the meetings.

The level of expertise on internal security policies, institutions, forces, and their budget is quite insufficient. These are generally experts in the field of technical legislation, and they work upon request. Security has long been considered as an issue that is addressed by the state security authorities and neglected not only by the CSOs and academics but also by the parliament. In security sector, reforming the language so as to overcome the asymmetry of knowledge between the civilians and the security bureaucracy with regard to security issues is of key importance.

Each MP has the right to employ two advisors and a secretary in the GNAT. It could be said that every MP has the right to employ advisers who have expertise on security issues, but this preference is at the discretion of the MP. MPs can also make use of the Parliament’s research unit or appeal to outside experts from civil society and academia. The committee members’ lack of knowledge can be eliminated through the support of individual experts, experts from institutions such as CSOs, and academics.

3.1.2. CSO Participation

Outside experts from civil society and academia can participate in the legislative and oversight activities of the GNAT as part of the committees’ activities. In fact, there is no rule regarding the participation of CSOs in the RP. According to RP, committee meetings are open to (1) the members of
the GNAT, (2) deputy presidents, (3) ministers, (4) deputy ministers, and (5) high ranking executives (Article 31). Hence, all of these people can attend the committee meetings without any request or invitation. Article 30 of the RP refers to “experts” in the following manner: “Committees may invite experts in order to receive their opinions”. So, the participation of experts in the committee meetings depends on the invitation of the committee. On the other hand, committees are called for meetings by their chairpersons (Article 26, RP). Committee members are not allowed to invite external experts for the committee meetings unless the committee chairperson agrees.

There are two critical questions to ask: Who is an expert? What are the criteria of being invited to the committee meetings? There are no clear answers to these questions in the GNAT. For this reason, it is possible to find different practices in the committees. A chairperson of a committee might decide not to invite any representatives from CSOs to the committee meetings whereas another chairperson may choose to invite many experts from CSOs and universities.

Another ambiguity regarding the participation of experts in the committee meetings concerns the rights of the invited experts during the meetings. These experts may be given the floor more than once in one committee meeting while they may not be allowed to speak at all in another committee’s meeting.

It can be stated that it is possible for experts related to the internal security sector to participate in both standing committee meetings and temporary committee meetings. However, they might also not be invited to these committee meetings since the invitation is at the discretion of the committee chairperson. It is almost impossible to find a rule of thumb in the standing committees. However, it can be said that in the temporary inquiry committees, the committee chairperson tends to invite experts to their meetings due to the fact that they need their expertise to prepare their reports.

The participation of outside experts in the committees will definitely strengthen the legitimacy of the committees in establishing a participatory and inclusive relationship between the CSOs and the GNAT. This engagement is important to sustain the connection between voters and their representatives in the parliament alive and well.

There are several ways to make an impact on the legislation processes. It is legally possible for CSOs to participate in committee meetings; however, this is entirely left to the discretion of the chairpersons and/or the majority of the committee. There is ongoing work on the RP of the GNAT, which aims to ensure the active participation of CSOs in the legislation processes.

### 3.2. Oversight Function

The oversight function is related to the checks and balances principle, which requires parliaments to hold the executive accountable for its actions and ensures that the executive policies are in line with the laws and budget approved by the Parliament.

Oversight or supervision functions of the GNAT are embodied in the Articles 74 (the right to petition, right to information and right to apply to the ombudsman), 98 (the ways for obtaining information and supervision by the GNAT), 105 (criminal liability of the President), 106 (deputy presidents, acting for the President and ministers) and 160 (the Court of Accounts) of the Constitution. The internal rules of the GNAT, namely the Rules of Procedure (dated 1973 and lastly reviewed in 2018), have established the internal organization and the provisions to carry out its activities in accordance with the Constitution.
According to the Article 98 of the Constitution, the GNAT exercises its power of obtaining information and supervision of the executive by means of (1) parliamentary inquiry, (2) general debate, (3) parliamentary investigation, and (4) written question. Parliamentary oversight is also realized through parliamentary investigation, written question, and parliamentary committees. All these mechanisms will be discussed in detail in the relevant sections below.

As it is also stated in the Phase II Report, the GNAT is not considered as one of the oversight-oriented parliaments in the world. Phase II Report also suggests that the General Assembly of the GNAT has more influence than the committees in terms of oversight due to giving out information to the public by media.

There have been several attempts to strengthen the oversight role and power of the committees through the RP. With the constitutional amendments and subsequent changes in the RP, very limited progress has been made so far in strengthening the oversight function of the GNAT.

3.2.1 Plenary Sessions

Plenary sessions can be considered as the most important and most effective mechanisms of the GNAT as all the final decisions of the GNAT are taken in the Plenary sessions by the General Assembly. Therefore, it can be said that all public policies related to the ISFs are discussed and voted by the General Assembly in a plenary session. The framework of the oversight of ISFs is determined here and the majority of the elections for the oversight bodies such as the Ombudsman Institution and the Court of Accounts are held here. Moreover, the parliamentary committees conduct research and investigation on behalf of the Plenary. Hence, in terms of the oversight of the ISFs, General Assembly is important since the draft laws debated by the relevant committees that determine the framework of the public policies regarding the internal security sector are negotiated and enacted therein. The Plenary sessions are broadcasted on TBMM TV (Meclis TV), which is accessible to public.

Since the activities of the General Assembly are carried out in accordance with the agenda, there is no opportunity to negotiate an issue that is not included in the agenda. The agenda is determined by the Presidency of the GNAT by the order of receipt of the draft laws, official proceedings, committee reports as well as the motions on written questions, plenary sessions, parliamentary inquiries and investigations. The agenda of the Plenary of the GNAT is composed of the following sections: (1) Presentations of the Office of the GNAT Presidency to the Plenary, (2) Items to be included in the special agenda, (3) Election, (4) Items to be voted upon, (5) Parliamentary investigation reports, (6) General Debate and preliminary debates concerning conducting a parliamentary inquiry, and (7) Draft laws and other matters submitted by the committees. All are relevant for the parliamentary oversight of the ISFs.

Bringing security issues to the General Assembly depends on whether a draft law or a motion of oversight has been submitted regarding these matters. However, while the presentation of such laws and proposals is necessary, it is not sufficient to initiate negotiations. The order for negotiating the items found in sections 6 and 7 can be changed by the decision of the General Assembly upon the opinion of the Board of Spokespersons, which is established under the Presidency of the GNAT composed of the chairpersons (or vice-chairpersons) of the political party groups. When there is no agreement in the Board of Spokespersons, each political party group may individually bring its request to the General Assembly. As a result, the majority political party group/alliance is decisive in accepting or rejecting the proposal. Thus, laws concerning the security sector and motions concerning the parliamentary oversight on ISFs can be negotiated upon the request of majority votes.
The members of the executive attend the Plenary meetings on only three occasions: (1) Negotiation of budget laws, (2) Off of the agenda speeches upon the request of the executive, and (3) Informing the General Assembly about the SoE.

3.2.2. Off the Agenda Speeches

According to the Article 59 of the RP, there are two types of off of the agenda speeches. Speeches delivered (1) by MPs, and (2) by the members of the executive organ.

Under extraordinary circumstances in the Plenary, only three MPs are allowed to speak outside the agenda less than 5 minutes at the discretion of the Speaker (or vice-speakers). The requests are made to the vice-speaker who will lead the session on that day and who will then give the floor to the government and opposition MPs by following certain criteria. The decision is made depending on who chairs the session on that day and his/her approach and consideration of the significance of the issue. In practice, every day three MPs are allowed to speak outside the agenda regardless of the content of their speech. Therefore, when there is a critical issue to bring to the attention of the Parliament on the ISFs, the off of the agenda speech mechanism seems to be the most convenient tool for parliamentary oversight on ISFs.

In the off the agenda speeches, an MP, regardless of the agenda of the Plenary, can address any issue in the Plenary. This mechanism gives opportunity to all the MPs, including MPs from opposition parties to take the floor in the Plenary. OFF of the agenda speeches may open the way for the GNAT to enact laws regarding the ISFs or to initiate other oversight mechanisms such as establishing an inquiry committee.

After the Constitutional amendments of 2017, since the ministers do not attend the Plenary sessions and the government is no longer a component of the Plenary, members of the executive do not respond to the off of the agenda speeches.

The second type of off the agenda speeches are used by the executive. In case the President, deputy presidents, and ministers request to speak outside the agenda under extraordinary circumstances, the Speaker of the GNAT considers this demand. Following their statements, a representative of each political party group is entitled to speak once for a period not exceeding ten minutes. An independent MP is also allowed to speak for a period not exceeding five minutes. This mechanism has gained importance after the constitutional amendments of 2017 in establishing a communication channel between the MPs and the executive organ. This mechanism allows the executives (i.e. ministers) to make a statement on various issues to the GNAT. For example, on March 3, 2020, (Sitting No: 63) two ministers informed the Plenary by using this mechanism about the activities of the security forces in Idlib, Syria after 33 soldiers died during an attack. However, this meeting was a closed session and the minutes will not be shared for the next 10 years unless otherwise consented upon by the proposal of the Board of Spokespersons in the Plenary. The government has recently used this mechanism in relation to the Covid-19 pandemic in 2020.

3.2.3. Written Question

A written question is asked through a motion by an MP to the deputy presidents or ministers to be answered in a written form (Article 96). A deputy president or the related ministry is expected to send an answer to written questions through the Office of the Speaker of the GNAT. The Speaker of the GNAT immediately forwards the answer to the owner of the question. If a written question is not answered within due period, it is announced in an order document and this situation is communicated
to the deputy president or the relevant minister. However, no legal action can be taken against the executive member who does not respond to a written question. The consequence is only political.

The written questions can be more ineffective in comparison to the oral questions that were removed with the constitutional amendments of 2017, since the ministers no longer attend the General Assembly. The oral question was answered in person and verbally, and if the answer proved to be insufficient, additional explanation would be demanded. In case it was not answered in three Plenary sessions, it would then be turned into a written question. The oral question was efficient as it would take 15-20 minutes to answer a question. It takes time to obtain an answer for a written question. The number of written proposals has increased sharply after the constitutional amendments. For example, this number was just 4905 between October 2007 and 2008, whereas it was 15,687 between October 2018 and 2019. Almost all of the written questions (2843+1631=4474) were answered in the first period under comparison whereas 60% of the written questions (1557+7990=9547) were answered in the second period.

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</table>

Table 2. The number of written and oral questions and the rate of responses.

3.2.4. Parliamentary Inquiry

According to RP, a parliamentary inquiry is an examination conducted to obtain information on a specific subject (Article 104). The number of the members of the inquiry committees is not fixed in RP. Upon the proposal of the Speaker, the Plenary decides on the number of the members of the committee, its term of office, and whether it can work outside Ankara should the need arise. The committee will be granted an additional month in case it fails to complete its inquiries in three months. Should the committee fail again to conclude its activities within this additional period of time, a debate
is initiated in the Plenary within 15 days starting from the end of this time period for not concluding the inquiry or obtaining results. The Plenary may consider this debate to be sufficient or establish a new committee.

In the parliamentary inquiry, since a committee will be set up, various relations may be established with relevant actors outside the Parliament. These actors may be relevant personnel from the ministries, general and annexed budget administrations, local administrations, village and neighborhood authorities, universities, Turkish Radio and Television Corporation, state economic enterprises, banks and organizations established by a special law or the authorities whose authority is granted by such laws, professional organizations having the characteristics of public institutions and associations with a public interest status. The committee employs three different methods to establish connection with these persons and bodies: (1) It can request information from them, (2) It can invite their representatives to its hearings, and (3) It can carry out its own inquiries. Additionally, if the committee deems it necessary, it may consult experts who work in this field (Article 105, RP).

It can be said that an inquiry committee is an effective instrument in the hands of the Parliament to implement oversight regarding the ISF’s. When there are certain claims about a civil servant in ISFs or when parliament tries to provide solutions for issues concerning ISFs, the inquiry committee can be set to work. For initiating a parliamentary inquiry, a quorum of simple majority is required. This is the reason why almost all the parliamentary inquiry commissions so far (including the ones during the previous governmental system) have been initiated by the MPs of the governing party with a majority in the Parliament.

Although the committee has such a flexible and convenient structure for the oversight of the ISFs by the Parliament, it has three important limitations: (1) state secrets and (2) commercial secrets are excluded from the scope of parliamentary inquiry; (3) the committee is not authorized to summon persons, who do not wish to attend the meetings of the committee. Critiques regarding lack of such power can be found in some of the inquiry committee reports.

Inquiry committees may investigate certain cases regarding ISFs. For example, an inquiry committee was set up to investigate the suspicious death of the former MP, Erol Güngör’s son, and the committee, after finding some negligence regarding the ISFs, requested the prosecution of public officials.

Applying a quorum of qualified majority for the selection of the prospective members of a committee would limit the concerns arising from the access of the MPs to highly sensitive information, particularly about security service operations. Thus, there is a need for a comprehensive amendment to the RP to enhance the powers and capacity of the inquiry committees.

3.2.5. Parliamentary Investigation

In the new system, the parliamentary investigation of the deputy presidents and ministers can be initiated in accordance with the 5th, 6th, and 7th paragraphs of Article 106 of the Constitution.

The GNAT members may submit a motion to initiate a parliamentary investigation of the deputy presidents and ministers with regard to the accusations related to their duties. Absolute majority of the GNAT (300 members) may table a motion requesting that the deputy presidents and ministers be investigated in relation to the allegations of having committed a crime regarding their duties. The Plenary should debate the motion within one month and it may consequently decide to launch an investigation through securing the three-fifth majority of the total number of its members by secret ballot. If it is decided that there will be an investigation, it should be conducted by an investigation
committee consisting of 15 members. Each seat reserved to party groups in proportion to their strength. The committee is to submit its report on the conclusion of the investigation to the Speaker within two months. The report is debated in the Plenary within ten days after its distribution. The GNAT may decide to refer the report to the Supreme Criminal Tribunal with the vote of two-thirds of the total number of its members by secret ballot (Article 106).

3.3. Budgetary Control

According to the Constitution, the expenditure of the state and of public corporations other than the state economic enterprises is determined by annual budgets enacted by the Parliament. Parliament’s budgetary control is provided for the annual state budgets and final accounts of the previous year. The President presents a draft budget law to the Parliament at least 75 days before the beginning of the fiscal year starting in January. The draft budget is first negotiated and accepted at the Plan and Budget Committee within 55 days. Thereafter, it is debated and enacted by the General Assembly before the beginning of the fiscal year.

The President submits the draft of central government final accounts law to the GNAT within 6 months of the end of the relevant fiscal year. The Court of Accounts submits its statement of general conformity to the GNAT within 75 days of the submission of the draft version of final accounts law to which it is related. Parliament has 75 days in total; 55 of which are on Plan and Budget Committee, to finalize the budget draft. The remaining 20 days are reserved for negotiations at the General Assembly (Article 161). Therefore, it can be said that MPs have sufficient time to question the draft budget law and to express their views on revenues and expenditures. On the other hand, the draft final account law is submitted to the Parliament before the draft budget law, and both drafts are negotiated simultaneously in the committee and General Assembly.

When the budget law is approved within 75 days after its submission by the President, then the new budget is applied in the forthcoming year. Albeit, if the draft budget law cannot be put into force in due time, a provisional budget law is enacted. If the provisional budget law cannot be enacted either, the budget of the previous year is applied with an increase as per the revaluation rate until the new budget law is adopted.

Drawing up a budget is debated only in the Plan and Budget Committee. This means that the Committee on Internal Affairs that has competence over the internal security matters has no authority to discuss or act on budget related issues pertaining to internal security.

The annual budget debates at the General Assembly usually do not result in the increase and decrease of the budgetary numbers. The most effective budget audit of the Parliament is, however, regarding the control over final accounts. The Court of Accounts monitors the budget compliance and submits report to the GNAT. It is the duty of the Parliament to question whether these expenses are appropriate and whether they benefit the taxpayers based on these reports.

In this context, MPs has the right to review executive budgetary proposals pertaining to the MoI and scrutinize past expenditures of the same ministry during the debates in November and December. Yet, in order to have an oversight mechanism on the budget of the ISFs, it is vital to provide MPs access to relevant information about the proposed budget. Therefore, it is a common practice for parliaments to provide MPs access to relevant information about the proposed budget including economic assumptions, government strategic plans, and analysis of differences between planned and real expenditures of law enforcement bodies. Adequate information allows MPs to freely question
concerned agencies, not only with regard to their proposed budget, but also in relation to their overall performance. As access to information increases, MPs become more effective in their mandate to pass the national budget.

With the new Court of Accounts Law, committees other than the Plan and the Budget Committee have also been authorized to audit budgets. The Parliamentary Committee on Internal Affairs can take a decision requesting an audit of the accounts of the MoI to present a report to the Court of Accounts but no such request has ever been made.
3.4. Relations with Other Oversight Mechanisms / Independent Control Institutions

Independent oversight institutions can be classified as two groups: (1) oversight institutions that have relationships with the GNAT and (2) other institutions overseeing the ISFs.

According to the Constitution, there are two oversight bodies that use their power on behalf of the GNAT. These bodies are the Ombudsman Institution and the Court of Accounts. The GNAT has a role in electing the Chief Ombudsman (and other ombudsman) and the President and members of the Court of Accounts. These two bodies conduct oversight on behalf of the GNAT.

3.4.1 Ombudsman

According to the Constitution, the GNAT elects the Chief Ombudsman for a four-year term by secret ballot. The Constitution requires a two-thirds majority of the total members of GNAT in the first and second round of the election of Chief Ombudsman in order to ensure that the person to be elected is impartial. However, normally, in the third round, the candidate who receives the highest number of votes is elected. So far, no Chief Ombudsman has ever been elected in two rounds with two-thirds of the majority. The other ombudsmen are elected by the Joint Committee (made up of the Petition Committee and Human Rights Inquiry Committee) in a similar way.

According to the Article 24 of the Ombudsman Institution Law No. 6328, the Ombudsman Institution prepares a report about its activities and recommendations at the end of every year and submit it to the Joint Committee. The Joint Committee negotiates this report within two months and summarizes it. Subsequently, the Joint Committee prepares another report by including its own views, and sends it to the Speaker to be negotiated in the General Assembly. However, despite these legal obligations, the reports were not discussed at the General Assembly until 2017. The reports of the committee for the years of 2013, 2014, 2015, 2016 and 2017 were negotiated all together in a Plenary session held on November 1, 2018, and the report for the year 2018 was debated on January 2, 2020. In almost all reports, there is an emphasis on the ISFs. For instance, the 2015 report suggests that the cases of torture and ill-treatment by the ISFs that were experienced in places where people were deprived of their liberty have been reduced and these cases might be thought as individual occurrences rather than systemic acts.

3.4.2 The Court of Accounts

The Court of Accounts fulfils a significant function in preparing its conformity reports regarding the final accounts law of the executive organ. Central government final accounts laws is submitted to the GNAT by the President, and the Court of Accounts should submit its statement of general conformity to the GNAT in a designated time period. Moreover, the Court of Accounts has the authority to send responsible public officers to the court to be tried. For this reason, the submission of the final accounts laws and the statement of general conformity to the GNAT do not preclude the auditing and trial of the accounts for the relevant fiscal year that have not been concluded by the Court of Accounts, and it does not mean that a final decision has been taken on these accounts.

It can thus be concluded that the Court of Accounts is an effective mechanism for the oversight of the Parliament in general and on ISFs. Court of Accounts’ conformity reports have to be submitted to the GNAT within due time determined by the Constitution. The Court of Accounts’ reports are thereby submitted to the GNAT every year without any exception. These reports can be found online.
According to Articles 13 and 16 of the Law on Court of Accounts, the members and President of the Court of Accounts are elected in the Plenary of the GNAT by a secret ballot between two candidates. In order to ensure that the President and members of the Court of Accounts are impartial, a detailed and rigorous arrangement regarding the election of the members was made in the aforementioned law.

One can conclude that even though impartiality is aimed in the election processes of these institutions, if the majority in the Parliament is composed of the ruling party, the Chief Ombudsman and President, and members of the Court of Accounts are likely to be chosen in line with the preference of the existing government.

3.4.3. The Law Enforcement Oversight Commission

An important step for the oversight of the ISFs is the Law on the Establishment of the Law Enforcement Monitoring Commission that established the Law Enforcement Monitoring Commission within the MoI in 2019. It was adopted and issued on May 3, 2016 by the Parliament. The Law includes the TNP, Gendarmerie General Command, and Coast Guard Command. It aims to bring these law enforcement agencies and their officers in line with the European standards by establishing a single authority to monitor and assess complaints regarding the law enforcement officers’ misconduct. The adopted law also aims to increase law enforcement officers’ liability, ensure transparency, and develop a faster and more effective system of complaint that will monitor and record the actions and operations of the administrative units that include actions, attitudes, and behaviors requiring disciplinary punishment or alleged crimes of general law enforcement officers through (the establishment of) a central system.

This commission has seven members and is responsible for recording and tracking all complaints concerning law enforcement officers’ misconduct. With the creation of the Law Enforcement Monitoring Commission, allegations of crimes that have been committed by law enforcement officers (from the TNP, the Gendarmerie, and the Turkish Coast Guard Command), or any act, attitude or behavior that call for administrative disciplinary measures with respect to those officers will be documented in a central registry system and be duly followed up (Article 1). Violations that are linked to the military duties of the Gendarmerie and to the personnel of the Turkish Coast Guard Command are beyond the scope of the Law (Article 1/3). The Commission will function as a permanent Board within the MoI. In addition to the mandates linked to disciplinary investigations, the law also specifies additional mandates for the commission including preparation of annual reports that will be submitted to the Human Rights Inquiry Committee of the GNAT as well as to the Presidency, monitoring the implementation of law enforcement ethical guidelines, conducting public surveys in order to assess public confidence in the law enforcement monitoring system, and making recommendations for the training programmes of the law enforcement units. It is not specified in the law how to take action on the reports to be submitted to the Parliament. However, since there is no provision regarding the reports to be discussed in the Plenary, the reports may be discussed in the Human Rights Inquiry Committee. Since no reports have been negotiated in this Committee to date, it is not possible to make a statement about how the report will be negotiated. Moreover, as all the members of the committee are directly or indirectly appointed by the President, the committee’s lack of independence almost eliminates its effectiveness. It can be expected that the duty to prepare and send annual reports to GNAT will provide support for the oversight of the ISFs by the Parliament.
4. Oversight of the ISFs by the Parliamentary Standing Committees at the GNAT

The committees at the GNAT can be classified in accordance with their legal basis, continuity, function, and competence. The standing committees related to the internal security sector will be analyzed in detail in the next chapter. Parliamentary inquiry committees and parliamentary investigation committees are regarded as temporary committees and analyzed in the above sections.

(1) **Continuity:** While some of the committees in the GNAT are permanent (standing), others can be established on an temporary basis. Parliamentary investigation and inquiry committees are temporary committees that operate for a certain period of time after being established. The standing committees are listed in Article 20 of the RP.

(2) **Legal basis:** The Plan and Budget Committee, parliamentary inquiry committees, and the parliamentary investigation committees are regulated by the Constitution. Some committees such as the EU Harmonization Committee, Petition Committee, and the Human Rights Inquiry Committee have been set up by separate laws to have a contact with the citizens. Other standing committees such as Justice Committee, Interior Affairs Committee, and Constitutional Committee are established by the RP as they are related to the inner workings of the GNAT. On the other hand, the Constitution also refers to the Justice Committee and Constitutional Committee in Article 159 following the amendments adopted in 2017.

(3) **Function:** The vast majority of the committees can only discuss draft laws and proposals, which are referred to them by the Speaker of the Parliament. They cannot hold meetings and conduct negotiations without a draft law. They cannot engage in matters other than those assigned to them (Article 35 of the RP). On the contrary, some committees such as the Petition Committee cannot discuss the draft laws and the law proposals. Some committees such as the Human Rights Inquiry Committee can perform both functions.

(4) **Competence:** According to the Article 23 of the RP, a primary committee’s report constitutes the basic document for the Plenary debates. Secondary committees are those committees that present their opinions on the parts or articles of the matter within the remit of the relevant committee. Secondary committees may decide not to discuss proposals. It may be argued that this is because of the lack of expertise and staff capacity; however, the secondary committees may often think that the primary committees do not take their reports seriously.
Table 3. Parliamentary Committees at the GNAT
4.1. Establishment of the Committees

The number of the committee members is not fixed and determined in line with the participation of each political party group. Accordingly, (1) every political party group has at least one member in each committee, and (2) political party groups are represented in accordance with their representation level in the GNAT.

During the former system of government, the executive had the majority of the seats in the Parliament, which caused the governing party/parties to have the majority in all committees and lead the activities of these committees. The new system, despite the arguments that it fosters the separation of powers, resumes the long-standing practice in that sense and the committees are still far from effectively monitoring and supervising the executive. Having said that, should the President and the majority of the Parliament have different political orientations, the committees may play a significant role in the oversight of ISFs and the executive as a whole.

![Table 4](image)

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<th>Percentage</th>
<th>If 26 Members</th>
<th>Percentage for 26 members</th>
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Table 4. Calculation of Standing Committee Members

4.2. Bureau of the Committee

When the Plenary completes the election of the members, the committees are called for a meeting by the President to elect their chairperson, vice-chairperson, spokesperson, and secretary (Article 24, RP). These four individuals constitute the bureau of the committee. They are elected by the vote of the absolute majority of members present in the meeting. As a result of this rule, all members of the bureau of the committee are usually determined by the ruling party, which has the majority of seats in the GNAT.

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1 The total number of committee members in the current Legislative term is 26. There are four exceptions to this: (1) Petition Committee: 12, (2) Budget Committee: 30, (3) Intelligence and Security Committee: 17 (due to establishment law), (4) Public Enterprises Committee: 35 (due to establishment law). Human Rights Inquiry Committee and the European Union Harmonization Committee may have independent MPs although they currently do not have any.
4.3. The Chairperson of the Committee

The most effective figure of the committees is the chairperson. First of all, the chairperson sets the agenda of the committee. Secondly, it is the chairperson who calls for meetings. Thirdly, the chairperson presides over the committee and gives the floor to the participants of the meeting. Therefore, it is the chairperson’s responsibility to ascertain the date of the committee meetings, to make decisions regarding the agenda of the committee meetings, and to invite CSOs representatives and other experts to the meetings. It is under the initiative of the chairperson that it is decided whether a law proposal by the MPs will be included in the agenda or not.

Participation of the experts and CSO representatives should be secured by an amendment in RP, which provides periodic hearings to allow civic participation. The discretion that is left to the chairpersons with regard to negotiation of draft laws should be abolished to enable a democratic and participatory environment for all political parties or independent MPs in the Parliament. In addition, adoption of co-chairpersonship in parliamentary oversight mechanisms or leaving the chairpersonship of those committees to the opposition may be a plausible solution to strike a balance concerning the relations between the majority and the opposition in the Parliament.

4.4. The Remit and the Powers of the Committees

The legislative committees can only debate the draft laws referred to them by the Speaker. They can accept or reject these draft laws. They are authorized to make amendments on the draft laws, which are under debate. They may combine two or more draft laws if they think these are connected. They cannot engage in matters other than those assigned to them (Article 35, RP) or propose laws unless they are assigned. Therefore, it can be said that legislative committees are subject to serious restrictions in terms of their remit and powers.

In the language of policy making process, the policy process can be broken down into four distinct stages: (1) policy initiation, (2) policy formulation, (3) policy implementation, and (4) policy evaluation. In this context, legislative committees are just in the second stage of policy making because they cannot introduce laws and they cannot be involved in the implementation and evaluation stages.

However, one shouldn’t conclude that the committees are completely unauthorized in terms of legislative function by looking at these restrictions. They may be very effective in the policy formulation stage. Committee members are usually the people who have expertise in matters falling within the committee’s remit. Therefore, it can be assumed that each committee is competent in improving a draft law that is referred to it by the Speaker. When the political and ideological differences of opinion are left aside, it may be possible to design highly qualified legislation. Committees may also submit qualified reports to the General Assembly concerning the draft laws, with the contribution of other experts and CSOs working in the field. If the committees function in this manner, this may help make the legislation stronger and effective.

Prior to the constitutional amendments of 2017, it was not possible for the committees to work efficiently in this way. The reason for this was that the committees were, to a great extent, negotiating the draft laws prepared by the government as a natural result of the previous parliamentary system. It was likely that the committee chairperson acted like a contact person between the committee members and the ruling party group. Thus, the chairperson actually set the agenda of the committee at the request of the government and did not allow any amendment that the government would not want due to his/her control on his/her party group members of the committee.
Table 5. Legislative process at the GNAT after the Constitutional Amendments of 2017

After the constitutional amendments of 2017, there is no draft law coming from the executive organ. Therefore, in the new system, the committee may have a much larger role in the policy formulation process. The committee may now have to conduct a much more rigorous and detailed examination since it will only negotiate the draft laws proposed by the MPs.

Consequently, legislative committees have an important role in the parliamentary oversight of the ISFs. These committees may be expected to dedicate themselves to law making process and to solve problems related to the security sector by making quality laws.

4.5. The Relationships between the Executive and the Committees

Before the constitutional amendments of 2017, a government representative had to be present to initiate the negotiations at the General Assembly and in the committees of the GNAT. The reason for this was that the draft laws negotiated in the committees were, to a large extent, prepared by the Council of Ministers, and the related members of the cabinet would be present in the committees to support the draft. Therefore, a member of the cabinet or a senior official acting on behalf of the government was required to attend the meetings to answer the question(s) that the committee members would ask. In the new system of government, since the draft laws are prepared by the MPs, members of the executive body are not required to attend the meetings at the GNAT.

On the other hand, committee chairpersons have to inform the Office of Presidency of the Republic about the committee meetings and the agenda of these meetings (Article 26). Nevertheless, the deputy president, ministers, deputy ministers, and high-ranking executives may attend the committee meetings at their own discretion (Article 30 and 31, RP). Moreover, on behalf of the executive, deputy presidents, ministers, and deputy ministers may take the floor in the committees.

It may be possible in the future that as long as the committee is more effective in determining the policies related to the security sector (or any other field for that matter), it is expected that the members of the executive will be more likely to attend the committee meetings voluntarily.

As mentioned above, the committees may invite outside experts (i.e. CSO representatives) in order to receive their opinions (Article 30). The chairperson gives the floor to the experts invited by the committee as s/he may deem necessary (Article 29). However, the chairperson has no authority to summon any expert or any other person to the committee meeting by force. This is due to the nature
of the RP. The RP regulates the internal functioning of the GNAT and cannot impose any obligations on third parties.

Since members of the executive body are not obliged to attend the meeting and provide information, the committee may directly correspond with any ministry and request necessary information from them (Article 41). In case their request for information and document is turned down, there is no applicable sanction; however, these requests are generally met.

4.6. Relevant Committees for the Parliamentary Oversight of the ISFs

This section addresses the standing committees at the GNAT that may play a role in the oversight of the ISFs, their activities and the policies that underlie them. The parliamentary committees that are addressed in this section carry out the following functions for the oversight of the ISFs: (1) revise draft laws about institutions and mechanisms that define, regulate, and supervise the powers of the law enforcement bodies; (2) oversee the parliamentary mechanisms and the establishment of the parliamentary committees and ombudsperson mechanisms to conduct an investigation on the basis of the complaints coming from citizens regarding the ISFs; and (3) define and approve the budget related to the ISFs and internal security policies.

It should be borne in mind that currently no committee that specifically deals with the parliamentary oversight of the ISFs exists. The below mentioned committees may provide limited supervision of the activities of the ISFs. The leading reason for this inference is that they do not have the authority for access to information as a specialized oversight committee and they also have a lack of security-specific expertise in supervising ISFs. However, there are still venues for committees to play a role in the parliamentary oversight of executive in security matters.

4.6.1. Internal Affairs Committee and Justice Committee

Although all the standing committees of the Parliament may have a role in determining a public policy concerning ISFs, the Internal Affairs Committee and Justice Committee are the main actors with regard to this policy. Internal Affairs Committee examines the draft laws regarding central administration, the general regulation of the local administrations, police, gendarmerie, coast guard, civil defense and other internal affairs, which remain outside the jurisdiction of other committees. The Justice Committee examines the draft laws regarding justice affairs, basic laws, and other laws to ensure the harmony of the general legislation. In the matters related to the internal security sector, it is up to the Speaker of the GNAT to decide which committees will handle the matter.

The Speaker of the GNAT assigns the draft laws by individual MPs to the primary and secondary committees. The committee whose report will constitute the basic document for the Plenary debate is called the primary committee. Secondary committees are the committees that present their opinions regarding the parts or articles of the matter at hand within the remit of the committee. If the proposal is about ISFs, then there are five possibilities:

1. If the proposal is about punishment, trial, and investigation of internal security forces, then it is likely that the Justice Committee will be assigned as the primary committee,

2. If the proposal is about administrative organization of ISFs, the Internal Affairs Committee will be assigned as the primary committee,
3. If the proposal includes both kinds of regulations while the main amendments or additions concern judicial matters, the Justice Committee will be assigned as the primary committee and the Internal Affairs Committee will be assigned as the secondary committee,

4. If the proposal includes both kinds of regulations while the main amendments or additions concern the organization of administration, the Internal Affairs Committee will be assigned as the primary committee and the Justice Committee will be assigned as the secondary committee,

5. The President may refer the proposal to other related committees. For example, a proposal concerning education of the police or gendarmerie may be referred to the National Education Committee as a main or secondary committee or a proposal concerning the salaries or employment of the security forces may be referred to the Plan and Budget Committee.

Table 6. Role of the committees in determining policy concerning internal security sector

As has been explained in the previous chapter, committees may accept or reject individual MP’s draft laws that have been referred to them. Unless there is a draft law referred to them by the Speaker, they cannot propose draft laws and engage in matters other than those assigned to them. It then becomes evident that the Internal Affairs and the Justice Committees cannot, by themselves, propose a law on matters related to the internal security forces.

These committees are thereby only relevant when they are assigned a legislative matter that is connected to the security sector. They also do not have any oversight function except the fact that they can discuss draft laws pertaining to the oversight bodies and mechanisms.

The most important obstacle that these committees may encounter while forming the public policy regarding the security sector is that they may lack the required information and documents on the sector. Prior to the constitutional amendments of 2017, the government determined the policies
regarding the security sector and the draft laws that were prepared to this end were submitted to the committees through the Speaker. What the committees did was to review the policy prepared by the government and enact it after making the necessary amendments.

In the new governmental system, with the parliament being the sole legislative organ, the committees will develop and give shape to such a policy on their own. The committees will be more effective if they expand their expertise regarding the security sector and find ways to make more qualified laws in this area.

Committees may also have an effective role in the oversight of the parliament with regard to ISFs provided that they ensure the engagement of human rights organizations, bar associations, advocates, judges, police officers, and other related experts in the process of formulating a policy concerning the oversight on ISFs. While members of the Justice Committee concentrate on the criminal aspect of oversight, the Internal Affairs Committee concentrate on administrative aspects of the oversight on ISFs. These two committees may form a framework for the security sector and they may lead the way for the enactment of laws regarding these matters. When they achieve to form a public policy concerning parliamentary oversight on ISFs, they may have the power to revise this policy if need be.

In case the committees prefer to enact policies that are developed by the MoI, then parliamentary oversight on ISFs will be possible within the limits allowed by the ministry. In other words, the ministry will presumably exert its dominance over the committee, and the ministry and executive officials will determine the limits of the parliamentary oversight.

An important example for the Internal Affairs Committee’s achievement was the law concerning the private security organization. Law No. 2495 on the Protection and Security of Some Public Institutions and Organizations, enacted on 22/7/1981, allowed certain institutions to be protected by private security institutions by means of special methods. In accordance with the laws in question, the national education and training institutions, institutions that significantly contribute to the economy and war power of the state such as barrages, power plants, refineries, energy transmission lines, places for fuel transport, storage and loading facilities, the airports operated by the state, which are open to civil traffic, historical sites, ruins, open and closed museums, industrial and commercial and touristic facilities of the state could be protected by special security organizations that are licensed by official security bodies. There were constant demands to expand the scope of this law. As a matter of fact, when a draft law prepared by the government including such demands came to the committee in 2004, the committee put an end to the negotiations and tried to find a more radical solution to the problem. The solution they found was the Law on Private Security Services, which allowed all the public and private institutions and organizations wishing to receive services from private security agencies to purchase those security services. The committee has given shape to this law, which is still in force today, with the support of the MoI at the time.

4.6.2. Security and Intelligence Committee

The Security and Intelligence Committee was established in 2014 with the Article 12 of the Law No. 6532 to hold debates about the reports on security and intelligence prepared by the office of the President. Annual reports to be prepared by the Ministry of Internal Affairs, Ministry of Finance, and Head of the National Intelligence Organization as regards the security and intelligence activities of related bodies are submitted to the office of the President of the Republic. Accordingly, this office prepares a new report based on these contributions and submits it to the Security and Intelligence Committee. Within 90 days, the committee has to investigate and negotiate this report, and prepare
a new report that is submitted to the President. However, the law is not clear about the sort of action that the President will take with reference to this report.

The Committee has 17 members chosen in accordance with the general rules.

The main duties of the Committee are as follows:

- Providing opinions and suggestions on national security issues,
- Monitoring internationally accepted developments in security and intelligence matters,
- Preparing a report about its own activities,
- Putting forward suggestions to protect the security of personal data obtained during security and intelligence services, and the rights and freedoms of the individuals.

When the committee's working method and the reports that it has debated are taken into consideration, it is seen that its main duty has been to provide oversight on intelligence rather than the ISFs under the MoI. Each security unit has its own intelligence service and they are connected with each other and with the National Intelligence Organization. The Parliament cannot have oversight on these services due to confidentiality. Hence, this committee was set up so as to eliminate this deficiency.

The committee holds closed and confidential meetings. Information and documents referring to state secrets cannot be included in the reports that will be prepared by the relevant institutions and the Presidency, as well as in the committee reports, their appendices and minutes.

It is not possible to make an assessment regarding the efficiency of this committee as there is a confidentiality principle concerning its work and its reports cannot be discussed at the General Assembly.
4.6.3. Human Rights Inquiry Committee

This committee was established with a separate law (Law No. 3686 adopted on 5/12/1990). The composition of the parliamentary committee on Human Rights Inquiry is the same as the other committees with two exceptions: (1) It has two vice-chairpersons; (2) It includes independent MPs.

The committee carries out its activities under the framework of human rights defined in the Constitution of Turkey and in various international treaties and declarations such as the Universal Declaration of Human Rights, International Convention on Civil and Political Rights, and European Convention on Human Rights. This committee has played a significant role with regards to the prevention of torture in police stations and the prevention of human right violations in prisons. Thus, the committee has always been and still is a very important instrument of oversight of the ISFs.

The duties of the Human Rights Inquiry Committee are as follows:\(^2\)

- Following international developments on human rights,
- Determining the scope of the amendments in the field of human rights so as to achieve conformity between the Turkish Constitution and the related international treaties and declarations, and proposing constitutional amendments,
- Examining draft laws as a primary or a secondary committee,
- Investigating the extent to which the implementations of human rights conform with the Constitution and the international treaties Turkey is a party to in addition to holding inquiries for improvements and making proposals,
- Investigating the petitions sent to the Human Rights Inquiry Committee and in case of a human rights violation, referring them to the departments or offices concerned,
- Drawing attention of the members of the parliaments in foreign countries in case of any violation of human rights,
- Preparing a committee report on annual activities and their outcomes, and on the activities concerning human rights abroad.

The committee has the right to obtain information from the ministries, general and annexed budget administrations, local authorities, village headmen, universities, all other public institutions and organizations, and private institutions. If required, it may ask for expert opinions and work outside Ankara. It may act autonomously and initiate inquiries without any present appeals. It may also form subcommittees to hold inquiries. If the committee is of the opinion that there is a committed crime in the complaints, it may file criminal complaints to the chief public prosecutor’s office.

The reports of the committee are presented to the Speaker and are included in the agenda of the General Assembly based on the advice of the Board of Spokespersons. By means of reading or through general debate, it is possible to obtain further information about the reports. The committee reports are also sent to the ministries concerned.

Unlike other standing committees, this committee has the privilege of being both a legislative and an oversight/supervisory committee. In that sense, it may be an effective mechanism in establishing public policies related to the security sector as well as in the oversight of the ISFs.

\(^2\) https://www.tbmm.gov.tr/komisyon/insanhaklarieng/index.htm
4.6.4. Petition Committee

According to the Constitution, citizens have the right to petition in writing to the authorities and to the GNAT with regard to the requests and complaints concerning them or the public. The petitioner should be informed about the result of his/her application in writing without delay. Thus, the Petition Committee at the GNAT is a board established in line with this right and it examines the requests and complaints of the citizens. The Bureau of the Committee examines the petitions submitted to the committee and decides whether to accept the petitions or not. The Bureau of the Committee publishes these decisions and distributes them to the members of the GNAT.

The petitions that are accepted by the Bureau of the Committee are referred to the Plenary of the committee. The Plenary of the committee first examines these petitions and decides whether they can form a basis for a decision. The Bureau of the Committee prints the decisions of the Plenary of the committee and distributes them to all the MPs and sends them to the deputy presidents and ministers for necessary actions.

The Plenary of the committee prepares a report on the petitions that are objected to within 30 days from the date of objection and submits this report to the Speaker. The decision of the GNAT is final. The petitioners and the related deputy presidents as well as ministers should be notified of the final decisions. The deputy presidents and ministers inform the Bureau of the Committee in writing about the procedures they carried out in relation to the final decisions. The Plenary of the committee may request deliberation in relation to some of these decisions in the GNAT. In this case, the committee prepares a report stating its opinion on the matter and submits it to the Speaker.

Accordingly, the Petition Committee cannot be involved in the legislative processes and thereby has no direct role in defining the public policy concerning ISFs. It cannot act on its own, there should always be an application by citizens in Turkey.

### Table 8. Some examples from activities of the Human Rights Inquiry Committee

<table>
<thead>
<tr>
<th>Negotiating draft laws concerning human rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Proposals concerning the law about duty and powers of police organizations</td>
</tr>
<tr>
<td>• Proposals concerning Turkish Penal Code</td>
</tr>
<tr>
<td>• Proposals concerning the Law on Execution of the Sentences and Security Measures</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Establishing sub-committees to keep track of violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Subcommittee on Rights of Prisoners</td>
</tr>
<tr>
<td>• Subcommittee on Migration and Accommodation</td>
</tr>
<tr>
<td>• Subcommittee on Rights of the Child</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Visiting police stations and prisons</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Visit to Military Prisons</td>
</tr>
<tr>
<td>• Visit to Bolu Closed Penal Institution And F-Type High Security Closed Penal Institution</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Issuing statements</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Statement on 12 September Military Coup</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Preparing reports about specific and general cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Report on Uludere Incident</td>
</tr>
<tr>
<td>• Report on Murder of Hacı Ölmez</td>
</tr>
<tr>
<td>• Report of İzmir&amp;Aydın</td>
</tr>
</tbody>
</table>
The committee works as a mediator between individuals and public authorities, and tries to reach an understanding and find a solution for the issue addressed in the petition. Only some of the decisions of the committee can be debated in the Plenary of the GNAT.

In conclusion, although the committee has a role to play in the oversight function of the Parliament, it is not as effective as the Human Rights Inquiry Committee, especially in terms of the oversight of the ISFs.

4.6.5. Plan and Budget Committee

The Plan and Budget Committee is a crucial committee as (a) it negotiates the state budget that includes public revenues and expenditures; and (b) all the individual MPs’ draft laws, including monetary provisions, are presumably submitted to this committee. This causes the committee’s workload to be much more intense compared to the other committees since most of the proposals have monetary provisions.

<table>
<thead>
<tr>
<th>Committees</th>
<th>Total No of Proposals</th>
<th>Primary committee</th>
<th>Secondary committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan and Budget</td>
<td>1754</td>
<td>1369</td>
<td>385</td>
</tr>
<tr>
<td>Justice</td>
<td>630</td>
<td>434</td>
<td>196</td>
</tr>
<tr>
<td>Constitutional</td>
<td>139</td>
<td>97</td>
<td>42</td>
</tr>
<tr>
<td>Environment</td>
<td>87</td>
<td>40</td>
<td>47</td>
</tr>
<tr>
<td>National Defense</td>
<td>201</td>
<td>54</td>
<td>147</td>
</tr>
<tr>
<td>Internal Affairs</td>
<td>696</td>
<td>416</td>
<td>280</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td>204</td>
<td>190</td>
<td>14</td>
</tr>
<tr>
<td>National Education</td>
<td>387</td>
<td>187</td>
<td>200</td>
</tr>
<tr>
<td>Public Works, Reconstruction, Transportation and Tourism Committee</td>
<td>153</td>
<td>62</td>
<td>91</td>
</tr>
<tr>
<td>Industry</td>
<td>211</td>
<td>75</td>
<td>136</td>
</tr>
<tr>
<td>Health</td>
<td>897</td>
<td>136</td>
<td>761</td>
</tr>
<tr>
<td>Agriculture</td>
<td>182</td>
<td>66</td>
<td>116</td>
</tr>
<tr>
<td>Human Rights Inquiry</td>
<td>104</td>
<td>1</td>
<td>103</td>
</tr>
<tr>
<td>Equal Opportunity for Women and Men Committee</td>
<td>151</td>
<td>3</td>
<td>148</td>
</tr>
</tbody>
</table>

Table 9. Number of the draft laws in the committees in the 27th Legislative Term (07.07.2018- 08.05.2020)
Through the Plan and Budget Committee, the Parliament has a significant influence both in formulating the public policy regarding the security sector and in its oversight on the ISFs. The reason for this is that the resource for the implementation of a public policy on security is shown in the budget and therefore bureaucrats have to explain to the committee why the allocation of budget is needed.

As explained above, the committee has quite a long time (55 days) to negotiate the budget and final accounts draft laws before the Plenary takes place. For example, the committee began to work on 6 November 2019 to negotiate the last budget law and final accounts law and concluded its work on 29 November 2019. Committee negotiated the budget of (a) MoI b) General Directorate of Security c) Gendarmerie General Command d) Coast Guard Command d) General Directorate of Migration Management e) Undersecretariat for Disaster and Emergency Management f) Undersecretariat of Public Order and Security g) Private Administrations and Municipalities Bail Fund Directorate on 20 November 2019.

The Budget Committee sessions are open to all MPs. Upon the request of the one-third of the committee members, the committee may decide to hold a closed session; however, this rarely happens. The committee may invite CSO representatives to its regular meetings, but only MPs and the representatives of the executive organ are invited to the budget negotiations. This is often criticized by the MPs from the opposition parties as they may ask for the representatives of professional organizations, trade unions and bar associations to be present in the committee meetings due to their expertise in respective budget subjects. As an example, the committee’s decisions about the proceedings in the last budget negotiations can be seen in the figure below:

Table 10. Budget negotiation in the Committee in 2019

The general rule regarding the broadcasting of committee meetings is also valid for the budget committee. Only printed media can follow the meetings and no live broadcasting is available.
4.6.6. The European Union (EU) Harmonization Committee

The EU Harmonization Committee was established in 2003 to align the Turkish legislation with the *acquis communautaire*. The composition of the committee is the same as the other committees with three exceptions: (1) it has two vice-chairmen, (2) it includes independent MPs, and (3) its members should have a good command of English or French.

The committee has duties concerning Turkey's accession to the EU such as monitoring and debating developments, following developments in the EU, and informing the GNAT about these developments. The committee also provides information on *acquis*, translates it, and support other committees to internalize it.

The foremost issue as regards this committee is that it has not been given the task of operating as a main committee, which limits its role in legislative process. Therefore, the only authority that the committee has in the field of legislation is to express its opinion to other committees when requested. Currently, there are just 7 draft laws submitted by the MPs before the committee and none of them have been debated yet.
5 Conclusion

The assessment above presented an overview of the Parliamentary Oversight of the ISFs, especially following the institutional changes in the internal security institutions in Turkey in the aftermath of the post-July 15 coup attempt and the subsequent transition to the Presidential system. The Parliament in Turkey is still the only competent body to enact laws in the new system. This requires putting more effort to strengthen the legislative and oversight role of the Parliament in legislative process especially given the strengthened executive.

Regarding the oversight of the ISFs, both the GNAT has a strong mandate and important roles. However, it can be observed that this work cannot be carried out effectively and autonomously as the strict separation of powers encapsulated in the amended Constitution entails. The matters related to the oversight of the ISFs are generally left to the initiative of the Executive, which is sharply separated from the Parliament except for the political ties of the President.

The assessment above revealed the shortages and potentials of the GNAT in overseeing the ISFs. A follow-up report is prepared to offer policy recommendations based on the assessments made in this report.
6 References

Books and Articles


Kitap ve Makaleler


Reports

