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**Partnership**  
for Human Rights

Submission to the United Nations Human Rights Committee

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# **Review of Turkmenistan under the International Covenant on Civil and Political Rights**



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# Preface

Turkmen Initiative for Human Rights (TIHR) and International Partnership for Human Rights (IPHR) welcome the opportunity to provide information to the Human Rights Committee in advance of its initial review of Turkmenistan under the International Covenant on Civil and Political Rights. The review of Turkmenistan will take place at the 104<sup>th</sup> session of the Committee on 12-30 March 2012. The current document, which is primarily based on information obtained through monitoring undertaken by TIHR, highlights major concerns in key areas of the Covenant. It updates and complements an earlier TIHR contribution to the Committee (available at <http://archive.chrono-tm.org/en/?id=1682>), which was submitted prior to the adoption of the list of issues for the review of Turkmenistan.

**Turkmen Initiative for Human Rights (TIHR)** is the successor organisation of the Helsinki Group of Turkmenistan and was registered as an independent association in Vienna in November 2004. Through a network of local experts and activists inside Turkmenistan, the organisation monitors and reports on the human rights situation in this country. It also disseminates independent news, comments and analysis from and about the country.

Turkmen Initiative for Human Rights (TIHR)

Dempschergasse 17/1/12

1180 Vienna, Austria

Phone: +43 1 944 1327

Email: [turkmen.initiative@gmail.com](mailto:turkmen.initiative@gmail.com)

Website: <http://www.chrono-tm.org>

**International Partnership for Human Rights (IPHR)** is a Brussels-based NGO that is committed to empowering local civil society groups and assisting them in making their human rights concerns heard at the international level. In particular, IPHR aims at advancing the rights of vulnerable groups subject to discrimination and abuse through cooperation with local partners.

International Partnership for Human Rights (IPHR)

Blvd. Bischoffsheim 11, 8th Floor

1000 Brussels, Belgium

Phone: +32 2 22 76145

Email: [IPHR@IPHRonline.org](mailto:IPHR@IPHRonline.org)

Website: <http://www.IPHRONline.org>

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## Introduction

Following the death of long-term President Saparmurat Niyazov, alias Turkmenbashi, in 2006, hope rose that the human rights situation in Turkmenistan would significantly improve. Under Niyazov's successor Gurbanguly Berdymukhammedov, the Turkmen authorities have made some small-scale progress. Among others, they have adopted new legislation for the stated purpose of ensuring better compliance with international standards and showed some readiness to cooperate with international human rights bodies (by allowing the UN High Commissioner for Human Rights and the UN Special Rapporteur on freedom of religion to visit Turkmenistan and by submitting long overdue reports to UN treaty bodies). However, in spite of this, the situation has remained essentially unchanged in practice.

Most of the characteristics of the repressive Niyazov regime have remained in place and President Berdymukhammedov continues to enjoy virtually unlimited powers. The government continues to dominate all branches of power, there is no openly functioning political opposition, media is tightly controlled by the state, and the environment for civil society is extremely repressive. Fundamental rights and freedoms continue to be restricted in all walks of life and no effective measures have been taken to address major concerns raised by international human rights review bodies, despite pledges made by the Turkmen authorities.<sup>1</sup> While the most extreme features of the Turkmenbashi-cult have been done away with, the current president has promoted a personality cult of his own and his portrait can be found on streets and buildings all over the country. The presidential elections scheduled for February 2012 are set to be another regime-orchestrated event without any meaningful competition.

### **1. Prohibition of torture and ill-treatment, liberty and security of person, and treatment of persons deprived of liberty (articles 7, 9 and 10)**

Following its review of the situation in Turkmenistan in May 2011, the United Nations Committee against Torture expressed concerns about "the numerous and consistent allegations about the widespread practice of torture and ill-treatment of detainees" in the country, as well as "the substantial gap between the legislative framework and its practical implementation" in this area.<sup>2</sup>

While the Turkmen Constitution prohibits torture and ill-treatment (article 23), "torture" is not defined anywhere in the country's legislation. The Criminal Code does not specifically provide for liability for torture, but only contains provisions that indirectly penalise such treatment, such as provisions that criminalise the infliction of physical or moral suffering (article 113), abuse of power involving the use of violence (articles 182, 358), and the use of threats, violence and other illegal means to obtain information from individuals suspected or charged with crimes, witnesses etc. (article 197).<sup>3</sup> Over the past ten years, only four members of law

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<sup>1</sup> Among others, when Turkmenistan was reviewed by the Human Rights Council under the Universal Periodic Review in late 2008, its government undertook to implement a number of recommendations, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/TM/A\\_HRC\\_10\\_79\\_Turkmenistan\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/TM/A_HRC_10_79_Turkmenistan_E.pdf). Following a visit to the country in April 2010, UN secretary General Ban Ki-moon said that he had received "assurances" from the Turkmen authorities that they were going to take all necessary measures to implement the recommendations made by the Human Rights Council, <http://www.un.org/apps/news/story.asp?NewsID=34271&Cr=Central>.

<sup>2</sup> See Concluding Observations of the Committee against Torture, June 2011, at <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.TKM.CO.1.pdf>.

<sup>3</sup> Criminal Code of Turkmenistan, at [http://www.turkmenistan.gov.tm/\\_ru/laws/?laws=01go](http://www.turkmenistan.gov.tm/_ru/laws/?laws=01go).

enforcement services are known to have been charged and convicted under Criminal Code article 182,<sup>4</sup> where the penalties foreseen range from fines to imprisonment of up to eight years.

The Turkmen government has denied the International Committee of the Red Cross and Crescent (ICRC) access to the country's prisons and detention facilities, despite its undertaking to allow it regular access.<sup>5</sup> As other independent observers are also denied access to the country's prisons and detention facilities, it is extremely difficult to obtain information about the conditions in these places. However, with the help of their contacts inside of Turkmenistan, TIHR and the Netherlands-based Turkmenistan's Independent Lawyer Association (TILA) have been able to gain a picture of the situation. A 2010 report published by the two organisations documented the findings of monitoring undertaken by TILA of four prisons, one detention facility where newly convicted individuals are held prior to being transferred to prison colonies, as well as several temporary accommodation centres where detainees are held prior to trial.<sup>6</sup>

The monitoring showed that those held in pre-trial detention facilities are particularly vulnerable to ill-treatment. Pursuant to the Criminal Procedure Code, a person may be detained for 72 hours without charge. During this period, detainees are frequently held in solitary confinement, denied access to a lawyer and subjected to torture and ill-treatment in an attempt to force them to "confess".<sup>7</sup> Deaths in detention centres due to torture have been reported; only in some cases the perpetrators are known to have been held accountable.<sup>8</sup> (On this issue, see also the case of Ogulsapar Muradova in the section on civil society activists below).

Many detainees refrain from filing complaints about torture or ill-treatment out of fear of repercussions.<sup>9</sup> There is also no independent body that examines torture complaints.<sup>10</sup> Courts, as a rule, ignore torture allegations made by defendants. Moreover, they readily accept as evidence statements made under duress and hand down convictions on such grounds, even if the Turkmen Constitution (article 45) prohibits evidence obtained through "psychological or physical pressure" or other "illegal" methods.<sup>11</sup> The situation is further aggravated by the fact that the country's judiciary lacks independence and that courts often consider the cases before them in a perfunctory fashion and in serious violation of procedural requirements.<sup>12</sup>

The monitoring results reported by TILA and TIHR further show that prison conditions remain deplorable. A major problem is overcrowding, with the number of prisoners considerably exceeding the official maximum capacity of prisons. In late 2009 there were more than 25,000 prisoners in the country, which was more than

<sup>4</sup> *Compliance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. Alternative NGO Report to the Committee against Torture by TIHR, ILA, FIDH, 2011, p. 9, [http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIHR\\_ILA\\_FIDH\\_Turkmenistan\\_CAT46.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIHR_ILA_FIDH_Turkmenistan_CAT46.pdf).

<sup>5</sup> UN Human Rights Council Resolution XX/YY/ZZ, 6 January 2009.

<sup>6</sup> TIHR and ILA, *Turkmenistan's Penitentiary Facilities*, February 2010, <http://archive.chrono-tm.org/uploaded/1266867677.pdf>.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Compliance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. Alternative NGO Report to the Committee against Torture by TIHR, ILA, FIDH, 2011, p. 16, [http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIHR\\_ILA\\_FIDH\\_Turkmenistan\\_CAT46.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIHR_ILA_FIDH_Turkmenistan_CAT46.pdf).

<sup>11</sup> TIHR New release 4 January 2012, <http://www.chrono-tm.org/2012/01/zakonyi-i-realii/>.

<sup>12</sup> *Compliance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. Alternative NGO Report to the Committee against Torture by TIHR, ILA, FIDH, 2011, p. 16, [http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIHR\\_ILA\\_FIDH\\_Turkmenistan\\_CAT46.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIHR_ILA_FIDH_Turkmenistan_CAT46.pdf).

three times the official capacity of all prison institutions combined. This forces prisoners to take turns in sleeping and to stand in line in order to use the toilet.<sup>13</sup>

Other common problems in the prison institutions monitored include insanitary conditions and lack of basic hygiene products, as well as small food rations resulting in malnutrition and undernourishment. In these conditions, where inmates diagnosed with TB, skin and other diseases are typically held together with healthy detainees, diseases easily spread. Due to a shortage of medical staff and medicine, diseases are not adequately treated and death rates are high. Although prisoners are allowed to receive food and medical supplies from outside the prison, not all prisoners have relatives who are able to assist them in this regard. In some cases, extreme climate conditions at the prison location further exacerbate the situation.<sup>14</sup>

The "special regime" colony based in the city of Seydi accommodates prisoners who have been designated as posing a special danger to society (who include religious prisoners<sup>15</sup>). Although the official capacity of the colony is a maximum of 700 people, currently more than 2,300 inmates live there. The colony is located in the desert where temperatures can fall below minus 20 degrees Celsius in winter and rise up to 50 degrees in summer. The overpopulation, the extreme climate, inadequate food and hygiene conditions, as well as the fact that the sick and healthy are being held together, has resulted in a high death rate among prisoners (an estimated 5%).<sup>16</sup>

Corruption is rampant in the prison system and there are reports indicating that relatives of inmates sometimes are required to pay bribes of up to several hundred US dollars in order to visit their imprisoned loved ones, hand over parcels to them or help them in other ways (e.g. to get a job in prison).<sup>17</sup>

The use of physical abuse and psychological pressure against inmates was reported in all the prison institutions monitored by TILA. Commonly used methods of torture and cruel treatment include forcing prisoners to stand in line for hours on end, beatings, electrocution, rape and deprivation of sleep and food. Individuals without any prior conviction who have just arrived to prison are particularly vulnerable to torture, both by prison wards and fellow inmates who act with the consent or at the order of prison officials. Juvenile inmates are held together with adult prisoners.<sup>18</sup>

Conditions with respect to childbirth in prisons are most disturbing. For example, the Dashoguz women's prison colony lacks a gynaecologist or other specialist. Pregnant women are brought to the city hospital only if they cannot give birth on their own. Transportation is often slow, and as a result many pregnant women have died before reaching hospital.<sup>19</sup> According to a report of the Norwegian Helsinki Committee, women in labour were handcuffed to bed while delivering children.<sup>20</sup>

<sup>13</sup> TIHR and ILA, *Turkmenistan's Penitentiary Facilities*, February 2010, <http://archive.chrono-tm.org/uploaded/1266867677.pdf>.

<sup>14</sup> *Ibid.*

<sup>15</sup> See Forum 18, "Eleven religious prisoners of conscience in one camp", 29 May 2011, [http://www.forum18.org/Archive.php?article\\_id=1566](http://www.forum18.org/Archive.php?article_id=1566).

<sup>16</sup> TIHR news release 4 January 2011, [www.chrono-tm.org/2012/01/osobo-opasnyie](http://www.chrono-tm.org/2012/01/osobo-opasnyie).

<sup>17</sup> TIHR and ILA, *Turkmenistan's Penitentiary Facilities*, February 2010, <http://archive.chrono-tm.org/uploaded/1266867677.pdf>.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> Norwegian Helsinki Committee, *Turkmenistan: Dashoguz women's prison colony*, 2011, [http://nhc.no/filestore/Publikasjoner/Rapporter/2011/Rapport\\_1\\_11.PDF](http://nhc.no/filestore/Publikasjoner/Rapporter/2011/Rapport_1_11.PDF).

In some instances, the whereabouts of individuals who have been sentenced to imprisonment remain unknown, even to their relatives. Among the victims of such enforced disappearances are former Minister of Foreign Affairs Boris Shikmuradov, and numerous other individuals who were convicted and sentenced to lengthy prison terms after the purported assassination attempt against late President Saparmurad Niyazov in November 2002.<sup>21</sup>

## RECOMMENDATIONS

The Human Rights Committee should call on the Turkmen authorities to:

- Take effective measures to implement the recommendations made by the Committee against Torture with the aim of eradicating torture and ill-treatment and eliminating impunity for such treatment. Key measures include:
  - ensuring that the country's legislation specifically penalises torture and ill-treatment and provides for appropriate penalties for such offences;
  - affording detainees access to a lawyer and other fundamental legal safeguards from the very outset of their detention;
  - ensuring that an independent body carries out prompt, thorough and impartial investigations into allegations of torture or ill-treatment, alleged cases of enforced disappearances in detention, as well as all incidents of death in custody, and that perpetrators of abuse are punished;
  - ensuring that evidence obtained by torture may not be invoked as evidence in legal proceedings, and reviewing convictions based solely on confessions;
  - bringing conditions in prisons and places of detention in line with relevant international standards;
  - establishing a national system of independent and regular monitoring of places of detention, and granting the ICRC access to all detention facilities in the country.

## 2. Freedom of movement (article 12, as well as articles 17, 19, 21, 22)

Freedom of movement is seriously limited in Turkmenistan, both with respect to movement inside of the country and movement across its borders.

The system of mandatory registration at the place of residence remains in force, which means, in practice, that residents cannot legally reside, work, use public health care services, etc. outside the city or settlement where they are registered. At the same time, it is very difficult to change the place of registration.

In a common practice, travel bans are used against individuals who are considered "disloyal" to the regime, as well as their family members as a means of punishing and putting pressure on them. Travel bans are not only applied to people who live in Turkmenistan, but also to Turkmen who reside abroad and their relatives and acquaintances in the country. For years TIHR has been receiving reports about unofficial "black lists" containing the names of individuals who are subject to travel bans. New reports surfaced in 2010 about a secret presidential decree listing more than 37,000 individuals who are not allowed to either leave or enter

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<sup>21</sup> TIHR and ILA, *Turkmenistan's Penitentiary Facilities*, February 2010, <http://archive.chrono-tm.org/uploaded/1266867677.pdf>.

Turkmenistan.<sup>22</sup> Among those named in this document were Turkmen political opposition figures, civil society activists, journalists and religious leaders. Foreigners from a wide range of countries and representatives of international human rights organisations were also banned from entering Turkmenistan. TIHR has received information about numerous cases where civil society activists and others have been stopped at the border and refused the right to travel abroad.<sup>23</sup>

On several occasions in recent years, Turkmen students enrolled at educational institutions abroad have faced restrictions on their right of movement. Following the summer break in 2009 some 150 students at the Bishkek-based American University of Central Asia were prevented from leaving the country to resume their studies. They were only allowed to leave after more than six months, as a result of international pressure.<sup>24</sup> In August 2011 students at higher educational institutions in Tajikistan, where more than 1,000 Turkmen are enrolled, were barred from returning to this country after spending their summer holidays in Turkmenistan. They were stopped at the border and sent back without explanation.<sup>25</sup> Some of those stopped were allowed to leave the country in October.<sup>26</sup>

Families with members studying or working abroad have been contacted by representatives of the authorities and asked to provide detailed information on the whereabouts and activities of their relatives.<sup>27</sup> An intimidation campaign has been carried out to discourage high school students from applying for educational exchange programs sponsored by the US government.<sup>28</sup> As a result, the number of high school students applying for participation in such programs has decreased considerably. In early 2012, only about 120 students participated in the first round of the selection process, compared to several hundred applicants in previous years.<sup>29</sup> In what appeared to be an attempt to prevent potential applicants from participating in the screening process, local authorities organised school competitions in English on the same days.<sup>30</sup>

The 2008 Constitution bans dual citizenship. Individuals holding dual Turkmen-Russian citizenships have been pressured to give up their Russian citizenship and warned that they will not be allowed to re-enter Turkmenistan if they relinquish their Turkmen citizenship. Thousands of people obtained dual Turkmen-Russian citizenships under a 1993 bilateral agreement, which the Turkmen government later unilaterally rescinded.<sup>31</sup> In December 2011, TIHR was informed that Turkmen airlines had begun informing passengers that, as of mid-2013, tickets for travel abroad will only be sold to individuals possessing new generation Turkmen passports. This regulation will directly affect individuals holding dual Turkmen-Russian citizenships

<sup>22</sup> Fergana.ru: "Президент запретил въезд и выезд из страны людей, внесенных в «черный список», 29 July 2010, [www.fergananews.com/news.php?id=15276&mode=snews](http://www.fergananews.com/news.php?id=15276&mode=snews), and "Blacklist Reportedly Circulated of Undesirables in Turkmenistan", 1 August 2010, <http://www.eurasianet.org/node/61649>.

<sup>23</sup> For examples see TIHR, Submission to the 102nd Session of the UN Human Rights Committee (11-29 July 2011) in view of the adoption of a list of issues for the review of Turkmenistan, <http://archive.chrono-tm.org/en/?id=1682>, as well section 5 of the current document.

<sup>24</sup> For more details see TIHR, Submission to the 102nd Session of the UN Human Rights Committee (11-29 July 2011) in view of the adoption of a list of issues for the review of Turkmenistan, at <http://archive.chrono-tm.org/en/?id=1682>.

<sup>25</sup> TIHR news release 12 September 2011, <http://www.chrono-tm.org/en/archives/58>.

<sup>26</sup> TIHR news release 1 October 2011, <http://www.chrono-tm.org/en/archives/139>.

<sup>27</sup> For more details see TIHR, Submission to the 102nd Session of the UN Human Rights Committee (11-29 July 2011) in view of the adoption of a list of issues for the review of Turkmenistan, at <http://archive.chrono-tm.org/en/?id=1682>.

<sup>28</sup> *Ibid.*

<sup>29</sup> TIHR news release 13 January 2012, <http://www.chrono-tm.org/en/archives/307>.

<sup>30</sup> *Ibid.*

<sup>31</sup> For more details see TIHR, Submission to the 102nd Session of the UN Human Rights Committee (11-29 July 2011) in view of the adoption of a list of issues for the review of Turkmenistan, at <http://archive.chrono-tm.org/en/?id=1682>.

who have been denied new Turkmen passports on different pretexts and will thus be left with only their Russian passports once their current Turkmen ones expire.<sup>32</sup> TIHR has also received reports about efforts to identify and single out government officials holding dual citizenships as “untrustworthy”. Five staff members of the General Prosecutor’s office were dismissed in September 2011 after it was revealed that they had Russian citizenship in addition to Turkmen.<sup>33</sup>

## RECOMMENDATIONS

The Human Rights Committee should call on the Turkmen authorities to:

- Abolish the system of mandatory registration at the place of residence;
- Put an end to the practice of subjecting civil society activists, journalists and others to travel bans and refrain from arbitrary restrictions on the right to travel abroad of anyone;
- Respect the rights of individuals who have obtained dual Turkmen-Russian citizenships under the 1993 bilateral agreement with Russia.

## 3. Freedom of expression (article 19)

Freedom of expression is seriously limited in Turkmenistan as the authorities exercise monopoly on the distribution of information and try to silence those who question “approved” information.

Turkmen authorities tightly control the country’s state-run media, which are used as outlets for ideological propaganda and expected to report uncritically about “achievements” and “successes” of official policies. High-ranking media executives are appointed directly by the president, with loyalty to the regime being a main criterion for appointment.<sup>34</sup> There are no independent newspapers or television or radio channels and it remains impossible for media to operate outside of state control. Reporters Without Borders has ranked Turkmenistan as the third most hostile country with regard to press freedom in the world.<sup>35</sup>

A first privately owned newspaper, Rysgal (Welfare), began publication in September 2010. However, while the creation of this business-related weekly was portrayed as an example of “successful democratic transition”, it cannot be described as an independent publication.<sup>36</sup> It was established by the Union of Industrialists and Entrepreneurs at the president’s “instruction”,<sup>37</sup> contains semi-official information and does not give any voice to individual Union members. In early 2011, the chief-editor was replaced in a manner similar to that in which arbitrary appointments and dismissals are often carried out in state media and other state institutions.<sup>38</sup>

<sup>32</sup> TIHR news release 4 December 2011, <http://www.chrono-tm.org/2011/12/reshajte-sami/>.

<sup>33</sup> TIHR news release 27 September 2011, <http://www.chrono-tm.org/en/archives/91>.

<sup>34</sup> TIHR, *Report on the state of freedom of mass media, freedom of speech and free access to information in Turkmenistan*, September 2008, p.5, <http://archive.chrono-tm.org/uploaded/1261840123.pdf>.

<sup>35</sup> Reporters Without Borders, *Press Freedom Index 2010*, <http://en.rsf.org/press-freedom-index-2010,1034.html>.

<sup>36</sup> TIHR news release 9 February 2011, <http://www.chrono-tm.org/2011/02/redaktor-sdelal-svoe-delo-redaktor-mo/>.

<sup>37</sup> “Turkmenistan’s Union of Entrepreneurs issued first private newspaper”, 18 September 2009, [http://www.turkmenistan.ru/?page\\_id=3&lang\\_id=en&elem\\_id=17854&type=event&sort=date\\_desc](http://www.turkmenistan.ru/?page_id=3&lang_id=en&elem_id=17854&type=event&sort=date_desc).

<sup>38</sup> TIHR news release 9 February 2011, <http://www.chrono-tm.org/2011/02/redaktor-sdelal-svoe-delo-redaktor-mo/>.

Freelance journalists are not recognised by Turkmen legislation, and government officials are prohibited from speaking to them.<sup>39</sup> The few local journalists who contribute to independent foreign media, such as the Turkmen service of Radio Free Europe/Radio Liberty, face intimidation and harassment, as do other members of civil society who are perceived as challenging the official line (see more in section 5 on repression of civil society). Representatives of foreign information agencies must be accredited by the Ministry of Justice in order to be able to work legally in the country. Accredited correspondents have reported being requested to submit texts to Turkmen authorities for review prior to publication under the threat that they may otherwise lose their accreditation.<sup>40</sup> The import and distribution of foreign newspapers and journals remain seriously restricted and only government entities are allowed to subscribe to such publications.<sup>41</sup>

Television, being the most popular form of mass media, remains a main tool of state propaganda. While satellite antennas offer a limited opportunity to obtain alternative information (with the most popular satellite channels being Turkish and Russian ones dominated by entertainment programs), they have also come under attack. In the summer of 2011, President Berdymukhammedov ordered that private satellite dishes be dismantled in Ashgabat, arguing that they “spoil” the city’s architecture and skyline. A similar campaign was initiated already in 2008, but eventually died down that time.<sup>42</sup>

In December 2010 the Turkmen authorities refused to renew the license of the only foreign mobile service company operating in Turkmenistan, the Russian MTS, without stating any clear reasons. As a result, the state-owned Altyn Asyr company gained monopoly in the cell phone market and more than two million mobile phone users were left without service. Many of the former MTS clients still remain without access to mobile phone services, as Altyn Asyr has not been able to accommodate them all. Additionally, it is almost impossible for foreigners to obtain a Turkmen SIM card from Altyn Asyr, as a Turkmen passport is required for registration.

Turkmenistan is one of the most hostile countries for internet users in the world. While President Berdymukhammedov has taken some steps to open up Turkmenistan to the World Wide Web, internet use remains heavily regulated in the country. The internet is still available only to a small fraction of the population and the only existing internet provider, Turkmen Telecom, offers a highly censored version of the internet. All online activities in internet cafes are recorded, while rates for private internet connections remain excessively high.<sup>43</sup>

Foreign websites that publish independent and critical information about developments in Turkmenistan are blocked in the country. Among these websites are sites related to the exile Turkmen opposition, news sites covering Turkmenistan such as gundogar.org and ferghana.ru, as well as the website of TIHR, chronotm.org. Social networking sites are unavailable and email correspondence is monitored and censored.

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<sup>39</sup> TIHR, *Report on the state of freedom of mass media, freedom of speech and free access to information in Turkmenistan*, September 2008, p. 9, <http://archive.chrono-tm.org/uploaded/1261840123.pdf>.

<sup>40</sup> *Ibid.*, p. 9.

<sup>41</sup> *Ibid.*, p. 10.

<sup>42</sup> TIHR news release 12 September 2011, [www.chrono-tm.org/2011/09/kochuyushhie-tarelki](http://www.chrono-tm.org/2011/09/kochuyushhie-tarelki).

<sup>43</sup> See the chapter on Turkmenistan in IPHR, TIHR and partners, *Central Asia: Censorship and Control of the Internet and Other New Media*, November 2011, <http://www.iphronline.org/news.html?73>.

Using its control over the country's media, the Turkmen authorities restrict access to information of public interest. In July 2011, the authorities tried to cover up the explosions at an ammunition depot, which resulted in numerous deaths and widespread damage and destruction. No reports about these events were allowed in state media until several days later. However, the government's information monopoly was challenged when Turkmen citizens used their cell phones and internet connections to communicate information about the explosions to the outside world. TIHR published a series of stories on its website on the basis of first-hand information from inside the country. The Turkmen authorities responded by denouncing this information as "slanderous" and tried to track down individuals who had reported on the explosions. The website of TIHR was hacked.<sup>44</sup>

## RECOMMENDATIONS

The Human Rights Committee should call on the Turkmen authorities to:

- Abolish excessive control of the work of media (including foreign media) and refrain from using state media as tools of ideological propaganda;
- Promote the growth of privately owned media and ensure that such media can operate independently of the state;
- Protect residents' right to seek and receive information from outside Turkmenistan by putting an end to measures that restrict the use of satellite channels, access to foreign newspapers, as well as access to foreign websites that report on developments in Turkmenistan;
- Take effective measures to promote universal access to the internet and allow foreign telecommunications companies to operate in the country as a means to stimulate market competitiveness and improve services;
- Stop conducting systematic monitoring of internet use and refrain from intimidation and harassment of individuals who are suspected of using internet resources to communicate information to the outside world.

## 4. Freedom of assembly and association (articles 21 and 22)

The Turkmen Constitution guarantees the right to freedom of assembly "in the order established by law" (article 29), as well as the right "to form political parties and other public associations operating within the framework of the Constitution and national laws" (article 30). These rights are, however, seriously restricted.

There is currently no special law regulating the conduct of assemblies in the country. In practice the threat of reprisal by the authorities is so high that hardly anyone dares to attempt to stage public protests on political, social or other issues.

On 8 June 2011, a rare public protest was organised in the capital Ashgabat. A group of about 50 people assembled near the hotel "Oguzkent" to protest against the demolition of apartment houses in connection with the construction of a new motorway. Police promptly dispersed the rally and, according to information obtained by TIHR, later arrested four women accused of or-

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<sup>44</sup> See the chapter on Turkmenistan in IPHR, TIHR and partners, *Central Asia: Censorship and Control of the Internet and Other New Media*, November 2011, <http://www.iphronline.org/news.html?73>.

ganising it.<sup>45</sup> TIHR has not succeeded in finding out the names of these women or information about what happened to them following their arrest.

The Turkmen Law on Public Associations, which was adopted in 2003,<sup>46</sup> is highly restrictive in many respects. Among others, it establishes strict registration requirements, imposes onerous reporting obligations on associations, grants authorities broad powers to monitor and oversee the activities of associations and provides for harsh penalties for violations of the law.<sup>47</sup>

According to official information, less than 100 public associations are currently registered in the country. Most of these associations are government-controlled so-called GONGOs, while others work mainly on non-sensitive issues, such as youth, cultural or sport programs.<sup>48</sup> Independent civil society groups that have attempted to register have had their applications returned on various pretexts, e.g. for having used the “wrong” wording or for failing to provide additional information that is not required by law.<sup>49</sup> Independent international human rights NGOs have been denied access to the country.

In December 2011, a decision was made to dissolve the Galkynysh (“Revival”) movement, which has served as an umbrella for state-controlled public associations under the president’s chairmanship. President Berdymukhammedov stated that the movement had “fulfilled all the tasks posed before it at the current stage of state and social development of the country”.<sup>50</sup> This decision is, however, not expected to have any practical impact as the associations that formed part of it remain under government control.

With the only existing political party being the pro-presidential Democratic Party of Turkmenistan, separate legislation on political parties has been lacking until recently. A Law on Political Parties was adopted only in January 2012.<sup>51</sup> This step came after President Berdymukhammedov publicly expressed support for a multi-party system on several occasions, while saying, however, that he thinks it will be sufficient to have two parties that are “supported by citizens” and warning against the “proliferation of parties”.<sup>52</sup>

The Law on Political Parties provides, among others, that a party must have at least 10,000 members and its leadership and management bodies must be located on the territory of Turkmenistan. Parties established on national or religious grounds are prohibited, as are parties that “advocate racial, national or religious hatred” or “threaten the health or moral standards of the people”. Parties must apply to the Ministry of Justice in order to be officially registered. Registration may be denied, inter alia, if party statutes are found to violate Turkmen legislation. The activities of a registered party may likewise be suspended or terminated by court if they are considered to be contrary to legislation in force. According to the law, political parties may take part in elections if they were registered prior to the decision to hold those elections. In other words, the law is not applicable to the presidential elections scheduled for February this year.

<sup>45</sup> TIHR, “Rally organizers detained”, 23 June 2011, <http://archive.chronotm.org/en/?id=1703>.

<sup>46</sup> An unofficial English translation of the law is available at <http://www.legislationline.org/topics/country/51/topic/1>.

<sup>47</sup> For more details, see TIHR, Submission to the 102nd Session of the UN Human Rights Committee (11-29 July 2011) in view of the adoption of a list of issues for the review of Turkmenistan, at <http://archive.chrono-tm.org/en/?id=1682>.

<sup>48</sup> *Ibid.*

<sup>49</sup> For more details, see TIHR, Submission to the 102nd Session of the UN Human Rights Committee (11-29 July 2011) in view of the adoption of a list of issues for the review of Turkmenistan, at <http://archive.chrono-tm.org/en/?id=1682>.

<sup>50</sup> “National Movement “Galkynysh” ceased to exist”, 16 December 2011, [www.turkmenistan.ru/en/articles/15711.html](http://www.turkmenistan.ru/en/articles/15711.html).

<sup>51</sup> Law on Political Parties published in *Neytralni Turkmenistan* (in Russian), 13 January 2012.

<sup>52</sup> News Central Asia, “Reality Check: Opposition participation in presidential elections of Turkmenistan”, 11 July 2011, <http://newscentralasia.net/2011/07/11/reality-check-opposition-participation-in-presidential-elections-of-turkmenistan/>.

While the new law establishes a legal foundation for political parties, the possible emergence of one or even several new parties is not likely to result in any real improvement of opportunities for political participation unless these parties are able to operate independently of the authorities. Moreover, effective measures are needed to address broader problems undermining political participation and competition in the country and to ensure separation of powers, open political debate, as well as the conduct of free and fair elections. (See also section 6 on the right to participate in public life).

## RECOMMENDATIONS

The Human Rights Committee should call on the Turkmen authorities to:

- Adopt legislation on the conduct of assemblies that is consistent with international human rights standards and refrain from suppressing and punishing the participants in peaceful public protest actions;
- Abolish the prohibition on unregistered NGO activities and ensure that independent NGOs that so wish may obtain legal status in a fair and transparent process and carry out their activities without undue interference by authorities;
- Ensure that the new Law on Political Parties is implemented in a way that allows political parties independent from current state structures to obtain registration and operate freely in the country.

(See also the recommendations in the two following sections).

## 5. Repression of civil society (articles 19, 21, 22, and articles 12, 14, 17)

Journalists, civil society activists and other members of civil society who openly address problems existing in Turkmen society face intimidation and harassment by security services, e.g. by being held under surveillance, summoned for interrogation, banned from traveling abroad, and arrested, charged and convicted on politically motivated grounds. Relatives and friends of “inconvenient” civil society members, including activists in exile, are also singled out for repressive measures. Moreover, exile activists themselves have been subject to intimidation and the Turkmen government has tried to prevent such activists from participating in international human rights conferences.<sup>53</sup>

Journalists and human rights defenders Annakurban Amanklychev and Sapardurdy Khadziyev, who were sentenced to seven years in prison on trumped-up charges in 2006, remain imprisoned. There has been no independent investigation into the death in detention of their colleague Ogulsapar Muradova, who was arrested together with them.<sup>54</sup> A number of recent examples of persecution of civil society members are described below:

On 13 May 2011, Bisengul Begdesenov, a Kazakh community leader living in Ashgabat, was given a suspended prison sentence of five years on fraud and bribery charges. His relatives and colleagues believed that he was punished for his civic engagement on behalf of fellow Kazakhs. He has made numerous attempts to establish a Kazakh cultural centre in Turkmenistan. Before Begdenesov was arrested, his apartment was searched without a warrant and his computer and documents were

<sup>53</sup> For more details, see TIHR, Submission to the 102nd Session of the UN Human Rights Committee (11-29 July 2011) in view of the adoption of a list of issues for the review of Turkmenistan, at <http://archive.chrono-tm.org/en/?id=1682>.

<sup>54</sup> See open letter to the European Commission from a group of NGOs, 12 January 2011, [http://app.moogo.com/files/iphr.moogo.com/Press\\_release\\_turkmenistan\\_barroso\\_12\\_january\\_2011.pdf](http://app.moogo.com/files/iphr.moogo.com/Press_release_turkmenistan_barroso_12_january_2011.pdf).

confiscated. Although Turkmen law allows individuals with suspended sentences to leave the country for short periods of time, Begdesenov was denied permission to leave the country when he wanted to travel to Almaty in December 2011.<sup>55</sup>

TIHR's website was subject to an invasive cyber attack on 18 July 2011 after it published a series of stories that challenged the Turkmen government's account of the explosions at a weapons depot in the city of Abadan. These reports were used by many foreign media outlets in their coverage of the Abadan events, while denounced by Turkmen authorities. As a result of the attack, TIHR had to re-launch its website. In connection with the Abadan events, TIHR head Farid Tukhbatullin's mother received intimidating visits by local officials in her Turkmen home city and noticed signs of being held under surveillance.<sup>56</sup>

On 5 October 2011, a Turkmen court convicted Radio Free Europe/Radio Liberty (RFE/RL) contributor Dovletmurad Yazkuliyevev of allegedly encouraging a suicide attempt by a family member and sentenced him to five years in prison. The trial was held behind closed doors. Following international criticism, he was amnestied on 26 October as part of a general presidential amnesty on the occasion of the 20<sup>th</sup> anniversary of Turkmenistan's independence. After the July 2011 explosions at a weapons depot in the Turkmen city of Abadan, Yazkuliyevev published blog entries that were highly critical of the authorities' response to these events and was summoned and warned by security services that he may face defamation charges. Several other contributors to Radio Azatlyk, the Turkmen language service of RFE/RL, have also been subjected to persecution, including being summoned by security services, threatened and forcibly confined to psychiatric hospitals.<sup>57</sup>

In the early hours of 11 November 2011, unknown individuals threw cobblestones at the window of the apartment of Annamed Myatiev, a Dashoguz-based journalist who was fired from the state-run newspaper Neitralny Turkmenistan in 2009. The window of the bedroom broke, as did mirrors, while Myatiev escaped unharmed as he was in another room. Two weeks earlier, Myatiev was approached and hit in the face by an unknown man in the street. There is reason to believe that Myatiev was targeted because of his connections to individuals deemed "suspicious" by Turkmen authorities, including the two civil society activists Farid Tukhbatullin and Andrey Zatoka, who left Turkmenistan after facing persecution there.<sup>58</sup>

Former Culture and Tourism Minister Geldimurat Nurmammedov was put under pressure after criticising the absence of democracy and human rights in Turkmenistan in an interview he gave to RFE/RL on 8 December 2011. Nurmammedov, who served in the government in the early 1990s, told RFE/RL, among other things, that the Turkmen parliament plays no role in the country's political process and that the ruling party is "a tool used to play a trick during elections".<sup>59</sup> Following the interview, his family's construction company was, in effect, shut down in the course of a check carried out by finance and tax officials. The family was informed that company premises were sealed in line with a "decision by higher authorities".<sup>60</sup> According to information received by TIHR, Nurmammedov has been held under surveillance by security services and blacklisted from traveling abroad after he left the government.<sup>61</sup>

<sup>55</sup> TIHR news release 30 December 2011, <http://www.chrono-tm.org/en/archives/272>.

<sup>56</sup> For more information, see IPHR, TIHR and partners, *Freedom of Assembly and Association and the Role of Civil Society in the Protection of Human Rights in Kazakhstan, Turkmenistan and Uzbekistan*, September 2011, [http://app.moogo.com/files/iphr.moogo.com/Press\\_release\\_final\\_hdim\\_intervention\\_september\\_2011-1.pdf](http://app.moogo.com/files/iphr.moogo.com/Press_release_final_hdim_intervention_september_2011-1.pdf).

<sup>57</sup> For a summary of several cases targeting Azatlyk contributors, see TIHR, Report on the state of freedom of mass media, freedom of speech and free access to information in Turkmenistan, September 2008, p. 7-8, <http://archive.chrono-tm.org/uploaded/1261840123.pdf>. For a case where an Azatlyk contributor had stones thrown at her window by unknown perpetrators, in an incident similar to that involving Annamed Myatiev (described above), see TIHR news release 4 January 2011, <http://archive.chrono-tm.org/en/?id=1568>.

<sup>58</sup> For more details, see the chapter on Turkmenistan in IPHR, TIHR and partners, *Central Asia: Censorship and Control of the Internet and Other New Media*, November 2011, <http://www.iphronline.org/news.html?73>.

<sup>59</sup> Radio Free Europe/Radio Liberty, "Former Turkmen Official Criticizes Government, Lack Of Democracy", 9 December 2011, [http://www.rferl.org/content/former\\_turkmen\\_official\\_criticizes\\_government\\_lack\\_of\\_democracy/24417315.html](http://www.rferl.org/content/former_turkmen_official_criticizes_government_lack_of_democracy/24417315.html).

<sup>60</sup> TIHR news release 25 December 2011, <http://www.chrono-tm.org/2011/12/repressii/>; Radio Free Europe/Radio Liberty, "Former Turkmen Official Under Pressure After Talking To RFE/RL", 16 December 2011, [http://www.rferl.org/content/former\\_turkmen\\_official\\_under\\_pressure\\_after\\_talking\\_to\\_rferl/24424392.html](http://www.rferl.org/content/former_turkmen_official_under_pressure_after_talking_to_rferl/24424392.html).

<sup>61</sup> TIHR news release 25 December 2011, <http://www.chrono-tm.org/2011/12/repressii/>.

(For more examples, please see TIHR's Submission to the Human Rights Committee in view of the adoption of a list of issues for the review of Turkmenistan, April 2011, at <http://archive.chrono-tm.org/en/?id=1682>).

## RECOMMENDATIONS

The Human Rights Committee should call on the Turkmen authorities to:

- Put an end to intimidation and harassment targeting journalists who contribute to foreign news services, civil society activists and other representatives of civil society who challenge official policies (including those in exile), as well as their family members and friends;
- Release from prison Annakurban Amanklychev and Sapardurdy Khadziyev and ensure that an independent and thorough investigation is carried out into the death in custody of Ogulsapar Muradova;
- Allow international human rights NGOs access to the country.

## 6. Right to participate in public life and to vote in free and fair elections (article 25)

Turkmenistan is characterised by a highly authoritarian presidential rule and the lack of any genuine political pluralism. There is no effective separation of powers and the parliament (Mejilis) is fully subservient to the president. The only political party operating in the country is the so-called Democratic Party of Turkmenistan, which is chaired by the president. There is no open political opposition and all political opposition members are either in prison or in exile. The country's state-controlled media do not feature any open political debate and critics of the regime are subject to repression (see more under section 5 above).

The new Constitution adopted in 2008 abolished the infamous People's Council (Halk Maslahaty), a representative body created during the Niyazov era that was headed by the president and included members from the parliament, the government, as well as the judicial system. However, while the functions of the parliament were formally restored, it has remained a rubber-stamp body. Early elections to the parliament were held in December 2008 in a political context that did not allow for any meaningful competition. While each of the 125 seats was contested by more than one candidate, these candidates were all nominated by the Democratic Party of Turkmenistan and state-controlled public associations.<sup>62</sup>

Current President Berdymukhammedov was elected in 2007 after the sudden death of Niyazov. He received 89% of the votes in elections that likewise were neither free nor fair, with all candidates representing the same party and not presenting any clear differences in program. New presidential elections are scheduled for 12 February 2012. On several occasions in 2011 President Berdymukhammedov stated his commitment to hold these elections in a free and democratic environment. He also invited exiled opposition members to return to the country and take part in the elections, vowing to ensure that all candidates will enjoy equal opportunities and conditions.<sup>63</sup>

<sup>62</sup> See OSCE/ODIHR, *Turkmenistan: Early Presidential Elections 14 December 2008. Needs Assessment Mission Report*, at <http://www.osce.org/odihr/elections/turkmenistan/34606>.

<sup>63</sup> News Central Asia, "Reality Check: Opposition participation in presidential elections of Turkmenistan", 11 July 2011, <http://newscentralasia.net/2011/07/11/reality-check-opposition-participation-in-presidential-elections-of-turkmenistan/>.

Representatives of the exiled Turkmen opposition welcomed the president's invitation in principle,<sup>64</sup> but noted the dangers of returning in the current situation, where numerous opponents of the regime languish in prison<sup>65</sup>. Many of the opponents who are currently imprisoned were convicted in sham trials after the purported assassination attempt on former President Niyazov in November 2002. Another opposition member, Gulgeldy Annaniyazov, was sentenced to 11 years in prison in a closed trial after he returned to Turkmenistan in 2008. He left Norway, where he had been granted asylum, with the hope of contributing to a democratic development in his home country.<sup>66</sup>

Moreover, the participation of exile opposition members in the elections was made impossible by legal and procedural hurdles introduced in the new Law on Presidential Elections adopted in June 2011. According to this law, potential candidates must gather 10,000 signatures from supporters across the country in less than 30 days, unless they are nominated by political parties or public associations (in other words by either the presidential party or state-approved associations); they must not have a criminal record (while most opposition representatives living abroad have been criminally convicted in absentia), and they must have lived continuously in Turkmenistan for the past 15 years and served in state bodies, enterprises or organisations during this time (a condition that exile opposition leaders obviously cannot meet).<sup>67</sup>

In addition to the incumbent president, eight other candidates had been registered for the presidential elections by mid-January 2012. Six of them had been nominated by state-controlled industrial or civic groups, while two candidates (who also hold high-ranking positions – one as a minister, the other as the head of a factory) were said to have collected the required number of signatures mandated by the law governing the elections.<sup>68</sup> A candidate supported by the unregistered nongovernmental organisation Civil Society Movement was reportedly denied the right to run in the elections on the grounds that this movement is not registered with the Ministry of Justice.<sup>69</sup>

At the invitation of Turkmen authorities, OSCE/ODIHR undertook a needs assessment mission to Turkmenistan in December 2011 to assess the pre-election environment in the country. The mission report concluded that the rules regulating the election process remain of concern “in a number of crucial aspects”, including with regard to “undue restrictions on the right to stand as a candidate, existing defamation provisions that limit the freedom of expression, and the lack of due process guarantees in the complaints and appeals framework to ensure effective legal redress”.<sup>70</sup> In the current situation, OSCE/ODIHR decided not to deploy any mission to observe the presidential elections, in the same way as it has declined to observe earlier elections in the country.

<sup>64</sup> See joint statement by two exile opposition leaders, 19 July 2011, <http://watan.ru/?p=861&lang=en>. See also interview with opposition leader in TIHR news release 14 November 2011, [www.chrono-tm.org/en/archives/185](http://www.chrono-tm.org/en/archives/185).

<sup>65</sup> “Turkmenistan opposition leader doubts president's invitation”, 9 July 2011, <http://www.rnw.nl/english/bulletin/turkmenistan-opposition-leader-doubts-presidents-invitation>.

<sup>66</sup> See statement by the Norwegian Helsinki Committee, September 2009, <http://www.osce.org/odihr/38894>.

<sup>67</sup> Articles 27 and 29 of the Law on Presidential Elections of Turkmenistan, published in *Neytralni Turkmenistan* (in Russian), 1 June 2011.

<sup>68</sup> See <http://www.chrono-tm.org/2012/01/8-kandidatov/>.

<sup>69</sup> Radio Free Europe/Radio Liberty (RFE/RL): “Turkmen Schoolteacher Says Presidential Candidacy Rejected”, 10 January 2012, [http://www.rferl.org/content/turkmenistan\\_teacher\\_candidacy\\_presidential\\_bid\\_rejected/24447751.html](http://www.rferl.org/content/turkmenistan_teacher_candidacy_presidential_bid_rejected/24447751.html).

<sup>70</sup> OSCE/ODIHR Needs Assessment Mission Report, December 2011, [www.osce.org/odihr/elections/86861](http://www.osce.org/odihr/elections/86861).

## **RECOMMENDATIONS**

The Human Rights Committee should call on the Turkmen authorities to:

- Take concrete steps to promote political pluralism and accountability, including by implementing recommendations made by international experts on how to bring the legal framework regulating elections in line with international standards and holding elections in accordance with such standards;
- Enable the parliament to exercise its legislative and oversight functions independently of the executive;
- Encourage and tolerate open debate on political choices facing the country in media and elsewhere and stop attempts to silence those who challenge current policies.