



SUBMISSION ON TURKMENISTAN TO THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

For the review of Turkmenistan's second periodic report under the International Covenant on Economic, Social and Cultural Rights at the Committee's 64th session, October 2018

This submission has been prepared by Turkmen Initiative for Human Rights (TIHR) and International Partnership for Human Rights (IPHR) for the review of the second periodic report submitted Turkmenistan under the International Covenant on Economic, Social and Cultural Rights. It is based on information obtained by TIHR through its monitoring of developments in Turkmenistan with the help of an in-country network of activists, analyzes of national legislation and practice, as well as other relevant information. It was finalized in August 2018.

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, TIHR monitors and reports on the human rights situation in this country. It also disseminates independent news, comments and analysis from and about Turkmenistan.

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International Partnership for Human Rights (IPHR) is an independent, non-governmental organization founded in 2008. Based in Brussels, IPHR works closely together with civil society groups from different countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities in repressive environments.

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Introduction

The human rights situation in Turkmenistan remains highly repressive. While the Turkmenistani authorities have adopted new legislation and action plans for the stated purpose of improving compliance with international human rights standards, there have been no significant improvements in practice and the fundamental rights of residents continue to be systematically violated. The current, protracted economic crisis has brought about new challenges to the economic and social rights of citizens, among others because of shortages of basic foodstuffs such as flower, oil, egg and sugar. At the same time, the crisis has made the government increasingly weary of criticism, resulting in renewed pressure on those who speak out against injustice and human rights violations. There is no real rule of law in Turkmenistan and there is a widespread climate of impunity for violations.

This submission covers a number of issues related to the implementation of the International Covenant on Economic, Social and Cultural Rights, addressed in the List of Issues adopted by the Committee on Economic, Social and Cultural Rights prior to the review of Turkmenistan's second periodic report.

General information: Ombudsperson

According to the new Law on the Ombudsperson, which entered into force on 1 January 2017, this office holder is elected by the parliament among three candidates proposed by the president for a term of five years. The mandate of the ombudsman is set out quite broadly and includes: carrying out visits to inspect various public institutions, including detention facilities; compiling and analyzing information about the work of public bodies; receiving and considering complaints submitted by individual residents; investigating allegations of human rights violations; and contributing to efforts to raise awareness of human rights and to strengthen human rights related legislation. The law says that the ombudsman's office will be funded from the state budget and that the ombudsman will exercise his or her powers independently, without being accountable to any other body and enjoying immunity from prosecution. However, in spite of recommendations to this end by international experts², the law does not elaborate on how the institutional independence of the new office will be safeguarded and the fact that the ombudsperson is selected among candidates proposed by the president means in practice that this official is dependent on the president, in violation of the Paris Principles.

On 20 March 2017, Turkmenistan's parliament elected the first ombudsperson, member of parliament Yazdursun Gurbannazarov.³ The contact information of the new ombudsperson only became known to a wider public after TIHR learned and published it on its website in December 2017.⁴

Civil society representatives have been disappointed by the lack of adequate responses to their petitions to the ombudsperson. For example, when RFE/RL correspondent Soltan Achilova submitted a complaint about harassment targeting her children, she received a response in which the ombudsperson simply stated that the measures taken by the authorities were "lawful", thwarting the journalist's hopes for a thorough and impartial assessment of her complaint.⁵ Unknown perpetrators broke the window of the car of the journalist's disabled son in April 2017, and while police opened an investigation, it was soon

closed without results, although the attack had been caught on camera. Achilova's daughter has been banned from travelling abroad without explanation, a measure sanctioned by the migration service.⁶

Recommendations

The Turkmenistani authorities should:

• In accordance with the Paris Principles, ensure that the Ombudsperson's office enjoys independence and has adequate resources and powers of investigation, and revise the process of appointing this office holder to enable civil society to take part in it and to ensure pluralism in the process.

Equal rights of men and women (art. 3) and protection of the family (art. 10)

The new constitution that was adopted in Turkmenistan in September 2016 safeguards equal rights of men and women, prohibits discrimination on the basis of sex and states that violations of the equality between sexes is subject to criminal responsibility (articles 28 and 29). In August 2015, a law on state guarantees for ensuring equal rights and opportunities of women and men was adopted.⁷ That year, the authorities also adopted the Gender Equality Action Plan for 2016-2020, which is aimed at countering discrimination and violence against women, as well as promoting women's participation in different areas of society.

In spite of the adoption of new legislative provisions and the national action plan, problems of inequality and discrimination of women remain entrenched. The state authorities have not only failed to take effective measures to address negative and discriminatory attitudes and practices regarding the role of women; state policies have also reinforced discrimination and inequality between the sexes. In particular, TIHR has repeatedly reported about various efforts by the authorities to enforce "moral standards", which have resulted in arbitrary and discriminatory measures targeting women and girls. For example, dress codes for female students and state employees have been enforced (see also the section on cultural rights below), female university students have been banned from using ground transportation when visiting their families during breaks and school girls have been forced to undergo so-called "virginity tests".8

There is still **no specific legislation on domestic violence**, in spite of repeated recommendations by UN treaty bodies to this end. Although the National Action Plan for Human Rights for 2016-2020 sets out that a definition of "domestic violence" was to be developed and introduced into national criminal law in 2016-2017, this has yet to happen. The Turkmenistani government has indicated that the necessity of legislation criminalizing violence against women, including domestic violence will be considered on the basis of the results of a survey analysis of the occurrence of such violence. ⁹ However, given the current culture of silence regarding domestic violence in Turkmenistan, as well as the widespread fear of sharing

any information that does not please the authorities, it is doubtful that such a survey will provide reliable results if carried out under the auspices of the government. The Turkmenistani government has previously suggested that crimes involving violence against women are not widespread in the country¹⁰; however, as noted by the Committee on the Elimination of Discrimination against Women (CEDAW) in its recent concluding observations on Turkmenistan, there is currently no comprehensive statistical data on the prevalence of gender-based violence against women in the country. The CEDAW also concluded that perpetrators of such violence enjoy systemic impunity, "as reflected by the low number of prosecutions, the low number of convictions and lenient sentences imposed on them, and the State party's failure to provide reparation to victims".¹¹

Recommendations

The Turkmenistani authorities should:

- Take effective measures to implement the action points set out in the Gender Equality Action Plan for 2016-2020 and publicly report on the progress made.
- Adopt specific legislation on domestic violence, criminalize domestic violence and take effective measures to prevent and counter such violence in practice, in accordance with the recommendations of UN human rights bodies.
- Elaborate and implement a concrete program on eradicating negative stereotypes against women.
- Refrain from measures unduly restricting the rights of women and girls in the name of enforcing morality.

Right to work (art. 6)

The Soviet-era *propiska* system remains in force in Turkmenistan and continues to be enforced in ways that limit freedom of movement, as well as economic and social rights of residents. Although the Law on Migration (article 43) states that the enjoyment of rights and freedoms protected by law is not dependent on residence registration (article 43), the application of residence registration requirements results in that access to employment, housing and social and health care services is de facto linked to the possession of such registration.

According to the Migration Law (article 42), residents of the country are required to possess permanent registration at their place of permanent residence, as well as temporary registration at any place where they stay for 45 days or more. At the same time, it is very difficult to obtain such registration, especially in the capital and other large cities. In practice, it is impossible for those moving to Ashgabat to obtain permanent registration there and temporary registration requires having an employer who is able to provide documentation proving that there is no one from the capital who possesses the skills needed to carry out the work the person has been hired to do. As a result, many residents from other parts of the country who come to the capital for work are not able to obtain registration, which places them in a **vulnerable position**.

TIHR has received information about **police raids**, **detentions and the deportation of hundreds of people** from Ashgabat and Turkmenbashi due to the lack of residence registration in these cities in the last few years. ¹² In the weeks leading up to the Asian Indoor and Martial Art Games, an international sports even held in Ashgabat in September 2017, TIHR learned about a series of detentions and deportations of internal migrants from the capital due to their lack of registration. ¹³

Recommendations

The Turkmenistani government should:

• Ensure that residence registration requirements are not used to limit the right to freedom of movement or social and economic rights of residents.

Trade union and worker rights (art. 8)

All trade unions existing in Turkmenistan operate under the National Trade Union Center and are **de facto state-controlled** and workers have few rights and opportunities to defend their rights.

Those working for state institutions are in a particularly vulnerable situation and typically do not dare to contest violations out of fear of losing their jobs and income or being "blacklisted" as inconvenient individuals.

In a pattern to which TIHR and IPHR has drawn attention, employees at state institutions are, for example, often forcibly mobilized to participate in various state-organized mass events such as on the occasion of the celebration of holidays, the opening of new government-constructed buildings and days of free labour (*subbotniki*). State employees are expected to take part in these kinds of events also during their time off and the events are typically preceded by time-consuming rehearsals. In some cases, the participation in mass events and their rehearsals jeopardize the health and well-being of state employees given their length, nature and intensity. Thousands of state employees and other residents were forcibly mobilized for participation in ceremonies and festivities during the Asian Indoor and Martial Art Games in September 2017, and for attending this event, as well as for protracted rehearsals prior to the start of the games. ¹⁴ In one case, during the rehearsals for the closing ceremony, a 21-year-old university student died after he and others engaged as spectators were required to spend hours in the hot sun without being allowed to leave even to visit the toilet. The student died of heart failure, apparently without having been granted timely emergency medical assistance. In another case, dozens of people were injured as panic broke out due to a false bomb alert during an evacuation exercise held during a rehearsal for the games. ¹⁵

State employees are also required to **contribute to state needs from their salaries**. For example, prior to the Asian Indoor and Martial Art Games in September 2017, staff at state institutions were required to contribute part of their salaries toward the costs of these games.¹⁶ The government invested huge amounts and spent several years preparing for these games, which were the first ever high-profile international sports event to be held in the country.

During the current economic crisis, the salaries of state employees have in some cases been paid out with significant delays, creating difficulties for people dependent on timely payments to feed their families ¹⁷

Recommendations

The Turkmenistani government should:

- Ensure that trade unions can be established and operate without state control and interference.
- Protect the rights of workers in practice and refrain from the practice of forcibly mobilizing state employees and other residents for various state-organized events.

Right to an adequate standard of living (art. 11)

Turkmenistani authorities carried out mass demolitions of housing, including both apartment buildings and private houses in Ashgabat as part of construction projects implemented ahead of the Asian Indoor and Martial Art Games, which took place in the capital in September 2017. A report¹⁸ published by TIHR and Human Rights Watch documented the government's failure to provide adequate compensation to residents whose homes it expropriated and demolished to make way for large-scale urban reconstruction, infrastructure, and beautification projects in the years leading up to these games. Turkmenistan's law entitles expropriated homeowners to either an alternative "equivalent" living space or financial compensation. However, alternative housing offered was often worth significantly less than the homeowners' property, or in poor condition, or victims of expropriation were forced to accept alternative housing that was larger than their property, and to pay the difference in assessed value. In some cases, authorities evicted homeowners before alternative housing was available. Residents who tried to contest the expropriation of their homes or seek better compensation were denied justice, harassed and threatened.

House demolitions and evictions involving violations of the rights of residents have **continued also after the Asian Games**. For example, in July 2018, TIHR learned about several new cases of house demolitions in different parts of Ashgabat and its surroundings during which people have been arbitrarily denied compensation because they have allegedly failed to obtain relevant documentation for their housing.¹⁹

Recommendations

The Turkmenistani government should:

- Carry out any evictions in full accordance with applicable national and international standards, including the UN Basic principles and guidelines on development-based evictions and displacement.
- Ensure that homeowners and residents who have been forcibly evicted get fair and adequate compensation for the loss of their property and costs incurred due to the forced evictions.

Right to education (art. 13-14)

As discussed in the section on cultural rights below, members of ethnic minorities have few if any opportunities to study in their mother tongue.

The Turkmenistani authorities also continue to **arbitrarily prevent residents, including students from leaving the country**. These are two recent cases documented by TIHR:

- On 25 July 2018, a group of 19 young men and women who were on their way to take up their studies in Turkey were barred from boarding a plane from Ashgabat to Istanbul.²⁰ According to TIHR's information, migration service officials told the young men that they would only be allowed to leave the country after serving in the army, although some of them had already completed their compulsory military service. The young women did not receive any explanation. This incident took place shortly after the head of the migration service, Mergen Gurdov had called on officials from the service to "behave correctly" toward citizens leaving and entering the country.²¹ Previously the authorities have barred young people from boarding planes to go abroad for the stated purpose of protecting them from being recruited by militant groups or subjected to sexual exploitation abroad. The Law on Migration (article 30) sets out a list of grounds on which residents can temporarily be banned from exiting the country, including uncompleted compulsory military service, national security concerns and concerns about human trafficking. Restrictions imposed on these grounds cannot be appealed.
- In another recent case, a young man was prevented from returning to Turkey to continue his studies. Omursak Omarkuliev, who pursued engineering studies in Turkey and had founded an association for Turkmen students in this country, arrived to Turkmenistan in February 2018 to take part in monitoring the parliamentary elections to be held the following month. He came to Turkmenistan at the invitation of at the invitation of the Central Election Commission. Following this, he was not allowed to leave the country to travel back to Turkey. He told the Turkmen service of Radio Free Europe/Radio Liberty (RFE/RL) that he was repeatedly barred from boarding planes to Turkey at Ashgabat airport in February-March 2018 and that his appeals to different authorities on this ground had not rendered any results. ²² In mid-June 2018, RFE/RL service reported that Omarkuliev had been detained and was held at the notorious Ovan Depe prison, believed to have been sentenced to a lengthy prison term. ²³ TIHR's sources confirmed this information. ²⁴ It is not known on what charges the student was detained, but his relatives and acquaintances believe that they were politically motivated.

Turkmenistani students who study abroad are often monitored by the security services and both such students and their relatives have been subjected to pressure. In July 2018, the Turkmen service of RFE/RL reported that Turkmenistani students who study abroad are systematically summoned by security services when returning to Turkmenistan and pressured to provide information about other Turkmenistani students enrolled at foreign educational institutions.²⁵

Recommendations

The Turkmenistani government should:

- End arbitrary bans on citizens to travel abroad.
- Refrain from exerting pressure on students enrolled at educational institutions abroad, as well as their families.
- Abolish the broadly worded grounds for restricting travel abroad under the Migration Law and ensure that anyone subject to a travel ban receives a written decision explaining the reasons, which can be appealed.

Cultural rights (art. 15)

Protection of minorities

The Turkmenistani authorities have failed to take adequate measures to support and protect the rights of ethnic and linguistic minorities to preserve and develop their culture, language and traditions.

The National Human Rights Action Plan for 2016-2017 sets out that the authorities will create favourable conditions for children from national minorities to learn their own language, history and culture, and that the number of classes providing instruction in minority languages will be increased. However, according to TIHR's information, such instruction has recently decreased rather than increased. While instruction continues to be carried out in Russian in selected classes in schools in larger cities, TIHR has received reports indicating that such classes have been further cut back in recent years. For example, in the city of Dashoguz, the number of schools offering classes with Russian-language instruction was decreased from four to two during the 2017-2018 school year.²⁶ Only one fully Russian-language school operates in the country, the Pushkin school in the capital Ashgabat. Currently no instruction is offered in other minority languages within the national school system.

Dress codes requiring students, teachers and other employees at state institutions to wear uniforms designed on the basis of the Turkmen national dress continues to be enforced, irrespective of the ethnic identify of those affected. The authorities have suggested that such dress codes are adhered to voluntarily.²⁷ However, information from independent sources indicates that this is not the case. Recently dress code requirements have been further strengthened for girls and women: not only are they required wearing Turkmen national garments, these garments should also consist of loose-fitting and long dresses with traditional embroidered trousers below. Such requirements have been introduced for students, teachers and other state employees.²⁸ In April 2018, TIHR learned that school administration officials at the agricultural institute in Dashoguz ordered female teachers to pull up their dresses and demonstrate that they were wearing traditional trousers below, in accordance with new dress code requirements enforced at this institution, before being allowed to teach.²⁹

Internet freedom

The use of the internet has increased in Turkmenistan in the last few years, largely because of the growing use of mobile internet. In November 2017, the president last year instructed government agencies to elaborate a program for internet development, with a view to ensuring that all residents of Turkmenistan are granted internet access and that a minimum internet speed is achieved across the country.³⁰ However, **internet penetration still remains limited, internet speed slow and prices high** compared to global standards.³¹ According to the most recent figure from the International Telecommunication Union, about 18 percent of the population uses the internet,³² while the government has stated that there are over 2.5 million users.³³ The Speedtest Global Index rated Turkmenistan among the countries with the slowest internet speed,³⁴ while another recent study found that Turkmenistan was among the five most expensive out of 100 countries surveyed worldwide in terms of monthly costs for unlimited internet access.³⁵

News, NGO and other websites that publish independent information about developments in Turkmenistan are blocked. Access to social media sites, such as Facebook, Twitter and YouTube and online communications apps such as WhatsApp and WeChat has also been restricted and so has the use of so-called Virtual Private Network (VNP) services, which are used to access otherwise blocked sites.³⁶

TIHR's website, chrono-tm.org, has been the target of numerous attacks believed to have been orchestrated by Turkmenistani security services. In August 2017, the site was subjected to a massive denial-of-service (DDoS) attack, which resulted in problems for visitors to access it. This happened after TIHR published a satirical video featuring Turkmenistan's president, which drew a lot of attention, including from Western media.

In the recent period, the Turkmenistani authorities have also stepped up pressure against Turkmenistabased civil society activists, journalists working with foreign media and other critical voices who use the internet to disseminate information about the situation in the country, alternative to that of the government. Activists, journalists and their relatives have been subjected surveillance, intimidation, arbitrary detention and attacks by unknown perpetrators that have gone unpunished. Many of those targeted have been women.³⁷ In addition, social media users have been summoned and threatened with repercussions by security services if they do not stop taking part in social media discussions.³⁸

Practice of religion

The new Law on Religion adopted in 2016 prohibits the activities of unregistered religious communities and establishes strict registration requirements. Religious communities that already were registered when the law entered into force were required to re-register. According to Forum 18, the re-registration applications filed by many religious communities under the new law have been returned due to "errors" that government officials have demanded be "corrected" before the applications are processed. Small religious communities with less than 50 members are no longer eligible for registration under the 2016 law, and some communities such as independent Muslim groups, new Russian Orthodox communities, Protestant communities and Jehovah's Witnesses have been denied registration for years.

The 2016 law also imposes serious restrictions on the establishment of places of worship, the import and distribution of religious literature and other basic religious activities.

The implementation of the 2016 religion law has reinforced a pre-existing pattern of intimidation and harassment of minority religious minorities, as criticised by UN treaty bodies.

The Turkmenistani authorities also strictly control the practice of Islam and have recently **stepped up efforts to counter so-called non-traditional forms of Islam**, as well as more broadly the visible expression of Muslim beliefs. Those who practice Islam in ways not endorsed by the government risk intimidation, detention and imprisonment.

Recommendations

The Turkmenistani government should:

- Adopt effect measures to ensure the preservation and development of the language, culture, religions and traditions of national minority groups
- Increase access for children belonging to ethnic and national minorities to instruction in and study of their mother tongue.
- Ensure that dress code requirements do not violate the right of national minorities to respect for their identity and traditions or reinforce discrimination against women and girls.
- Promote internet access and stop the practice of arbitrarily blocking access to websites and social med sites.
- Refrain from exerting pressure on civil society activists, journalists and other residents using the internet to post and exchange information on issues concerning the situation in the country.
- Revise the new Law on Freedom of Religion and Religious Organizations to bring it into compliance with international standards protecting freedom of religion.
- Put an end to harassment and undue interference into the activities of minority religious communities, as well as those who practice Islam in ways not endorsed by the government.

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- ² ODIHR Comments on the Draft Constitution of Turkmenistan, July 2016, http://www.osce.org/odihr/262476?download=true
- ³ See http://www.chrono-tm.org/2017/03/parlament-turkmenii-izbral-pervogo-v-istorii-stranyi-ombudsmena/
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- ⁶ See more at http://iphronline.org/turkmenistan-release-of-journalist-does-not-signal-any-improvement.html
- ⁷ This law (in Russian) is available at: http://turkmenistan.gov.tm/?id=9491
- ⁸ https://en.hronikatm.com/2018/04/turkmenistans-female-teachers-barred-from-using-nail-polish-and-obliged-to-wear-female-balak-pants/ https://rus.azathabar.com/a/29021912.html
- ⁹ See point 17 of the responses by the Turkmenistani state party to the list of issues adopted by the Committee on Economic, Social and Cultural Rights ahead of the review.

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- ¹¹ CEDAW, Concluding observations on the fifth periodic report of Turkmenistan, July 2018, p.22, e) and g).
- ¹² See, for example, TIHR, "Raids on non-residents are underway in Turkmenbashi," 12 August 2016, at http://www.chrono-tm.org/en/2016/08/raids-on-non-residents-are-underway-in-turkmenbashi/
- ¹³ TIHR news update, 11 August 2017, http://en.chrono-tm.org/2017/08/in-the-run-up-to-the-asian-games-the-authorities-launch-raids-against-migrant-workers-from-other-regions/
- ¹⁴ See TIHR news updates, 1 June 2017, http://www.chrono-tm.org/2017/06/vmesto-kanikul-studentov-turkmenistana-zhdut-repetitsii-tseremonii-otkryitiya-aziadyi/; 28 August 2017, https://www.hronikatm.com/2017/08/v-byudzhetnyih-uchrezhdeniyah-turkmenistana-idet-otbor-zriteley-dlya-aziadyi/; and 20 September 2017, https://www.hronikatm.com/2017/09/o-repetitsiyah-tseremoniy-otkryitiya-i-zakryitiya-aziadyi-vozmozhno-chto-na-zakryitii-igr-prezident-ispolnit-novuyu-pesnyu/
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- ¹⁷ https://www.hronikatm.com/2017/04/uchitelyam-ashhabada-zaderzhivayut-vyiplatu-zarplatyi/?highlight=%D0%B7%D0%B0%D1%80%D0%BF%D0%BB%D0%B0%D1%82%D0%B0,

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avgust/?highlight=%D0%B7%D0%B0%D1%80%D0%BF%D0%BB%D0%B0%D1%82%D0%B0 ¹⁸ See TIHR and HRW,"Homeowners Evicted, Denied Compensation," 4 September 2016, at

https://www.hrw.org/news/2017/09/04/turkmenistan-homeowners-evicted-denied-compensation

- ¹⁹ https://www.hronikatm.com/2018/07/v-ashhabade-i-ego-okrestnostyah-snova-snosyat-zhilyie-doma/
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- ²⁷ For example, during the CEDAW review in July 2018, https://www.hronikatm.com/2018/07/razbiraem-na-tsitatyi-turkmenistan-otchitalsya-v-oon-o-pravah-zhenshhin/
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- ³¹ TIHR news update, 7 February 2017, http://www.chrono-tm.org/2017/02/slozhnosti-s-oplatoy-interneta-v-turkmenistane/
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- ³³ P. 31 in the Turkmenistani State party's responses to the List of Issued adopted by the CESCR ahead of the review.
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³⁵ http://www.fergananews.com/news/27055

³⁶ https://www.hronikatm.com/2018/01/v-turkmenistane-vozros-spros-na-vpn-programmyi/

³⁷ For more information about this trend, see the chapter on Turkmenistan in the report *The danger of standing up for justice and rights in Central Asia* published by IPHR, TIHR and partners in March 2018, at http://iphronline.org/danger-standing-justice-rights-central-asia-new-ngo-report-documents-alarming-trends.html

³⁸ https://en.hronikatm.com/2016/12/only-good-news-from-turkmenistan-in-the-run-up-to-the-asian-games/

³⁹ Forum 18, "TURKMENISTAN: Compulsory re-registration, continuing state obstructionism", 9 October 2017, http://www.forum18.org/archive.php?article_id=2323

⁴⁰ Forum 18, "TURKMENISTAN: Compulsory re-registration, continuing state obstructionism", 9 October 2017, http://www.forum18.org/archive.php?article_id=2323