



Turkmenistan

Joint Submission to the UN Universal Periodic Review  
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## 1. Introduction

- 1.1** CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the global south, and have members in more than 170 countries throughout the world.
- 1.2** In this document, the CIVICUS examines the Government of Turkmenistan's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Turkmenistan's fulfilment of the rights to the freedoms of association, expression and peaceful assembly, and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination on 22 April 2013. To this end, we assess Turkmenistan's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.3** During the 2<sup>nd</sup> UPR cycle, the Government of Turkmenistan received 27 recommendations relating to the space for civil society (civic space). Of these recommendations, 24 were accepted and three were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrates that the Government of Turkmenistan has not implemented any of the recommendations relating to civic space.
- 1.4** We are deeply concerned by the February 2017 Amendments to the 2014 Law on Public Associations, which introduce additional restrictions on CSOs, including by limiting their ability to register, run as independent organisations and receive funding from other countries.
- 1.5** As a result of these and other restrictions, civic space in Turkmenistan is currently rated as 'closed' by the CIVICUS Monitor, the most serious category.<sup>1</sup>

This submission examines Turkmenistan's implementation of UPR recommendations and compliance with international human rights standards concerning:

- Section 2: freedom of association
- Section 3: protection of HRDs, civil society activists and journalists.
- Section 4: freedom of expression, independence of the media and access to information.

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<sup>1</sup> CIVICUS Monitor: [Turkmenistan](#), accessed 25 September 2017. The CIVICUS Monitor is a research collaboration between CIVICUS and our members and partners that provides regularly updated information and analysis on the space for civil society and citizen activism in every country of the world.

- Section 5: freedom of assembly.
- Section 6 contains recommendations to address the concerns raised and to advance implementation of recommendations under the 2<sup>nd</sup> cycle.
- An annex of implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space can be found in Section 7.

## 2. Freedom of association

- 2.1** During Turkmenistan’s examination under the 2<sup>nd</sup> UPR cycle, the government received 12 recommendations on the right to the freedom of association and creating an enabling environment for CSOs. Among other recommendations, the government committed to “putting an end to restrictions imposed on Turkmen or international associations and NGOs, especially those working in the field of human rights, such as the strict control of their activities and their financing.” The government accepted all 12 recommendations. However, as evidenced below, the government has failed to take adequate measures to realise these recommendations, and has implemented none of them.
- 2.2** Article 4 and 17 of Turkmenistan’s Constitution of 2008 and article 22 of the ICCPR, to which Turkmenistan is a state party, guarantee the right to the freedom of association.<sup>2</sup> However, despite these commitments, the 2014 Law on Association, and its amendments introduced in February 2017, impose layers of restrictions on CSOs that limit their ability to register, run as independent organisations and receive foreign funding. This has resulted in a situation where no independent CSOs operate in Turkmenistan.<sup>3</sup>
- 2.3** The 2014 Law on Public Associations governs the registration and operation of CSOs in Turkmenistan. Article 9 of the law prohibits the activities of unregistered CSOs and strictly requires in Article 51 that national CSOs must have at least 400 members to register.<sup>4</sup>
- 2.4** Articles 27 and 32 of the 2014 Law on Public Associations require CSOs to submit information about their activities to the Unified State Register of Legal Entities, the Pension Fund of Turkmenistan and the tax authorities. Article 32 also gives the Government of Turkmenistan the power to attend meetings and events organised by CSOs.<sup>5</sup>

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<sup>2</sup> Constitution of Turkmenistan 2008, UTA, <http://www.uta.edu/cpsees/TURKCON.htm>

<sup>3</sup> Turkmen Initiative for Human Rights and International Partnership for Human Rights, Current Key Human Rights Concerns in Turkmenistan: Briefing Paper for EU-Turkmenistan Human Rights Dialogue, April 2017, <http://iphronline.org/wp-content/uploads/2017/04/TIHR-and-IPHR-briefing-paper-for-EU-Turkmenistan-HR-dialogue-2017.pdf>

<sup>4</sup> 2014 Law on Public Associations, Turkmenistan Government, <http://www.turkmenistan.gov.tm/?id=6444>

<sup>5</sup> Ibid.

- 2.5** The 2017 Amendments introduced to the 2014 Law on Public Associations on 4 February 2017 made additional restrictions such as Article 4 prevents foreign citizens and stateless persons from becoming founders or members of CSOs. The amendment further limits foreign and international organisations from conducting activities in Turkmenistan and Article 29 excludes so-called “Foreign Budget Organisations” from the list of possible donors of CSOs.<sup>6</sup>
- 2.6** According to official statistics, there are only 118 CSOs registered in Turkmenistan, with 40% of these being sports-affiliated associations. As a result of the restrictive legal regime, independent CSOs in Turkmenistan have found it nearly impossible to register in the country, why the number of registered CSOs is very low.

### **3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

- 3.1** Under Turkmenistan’s previous UPR examination, the government received nine recommendations on the protection of HRDs, journalists and civil society representatives. The government committed to several relevant recommendations including “ending arbitrary detention, harassment and other acts of intimidation against journalists, media workers and human rights defenders”. Of the recommendations received, eight were accepted and one was noted. However, as examined in this section, the government has not implemented any of the nine recommendations.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of association, expression and assembly. However, despite these protections, civil society representatives, HRDs and journalists in Turkmenistan are subject to grave violations, including intimidation, arbitrary arrests, convictions in unfair trials, torture and other ill-treatment.
- 3.3** Civil society representatives, HRDs and journalists exposing human rights violations in Turkmenistan have been detained and subjected to intimidation to prevent them from continuing their work. Several are targeted on trumped-up unrelated charges such as RFE/RL correspondent Hudaiberdi Allashov and his mother who remain under police supervision after being given suspended three-year prison sentences on charges of possessing chewing tobacco in February 2017.<sup>7</sup>

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<sup>6</sup> International Center for Not-for-Profit Law (ICNL), Turkmenistan, <http://www.icnl.org/research/monitor/turkmenistan.html>

<sup>7</sup> IPHR Online, The Danger of Speaking Out in Central Asia, 12 September 2017, <http://iphronline.org/the-danger-of-speaking-out-in-central-asia.html>

- 3.4** Following the failed coup in Turkey in July 2016, many individuals have faced severe crackdown accused of being affiliated with the Hizmet movement and its leader, Gülen, who allegedly was behind the coup-attempt. They have experienced arbitrary detentions, unfair trials resulting in serious convictions, torture and other ill-treatment from the Turkmen authorities. Over 100 people were detained in September and October 2016 because they attended, taught or worked at universities in Turkey or Turkmenistan thought to be affiliated with the Hizmet movement<sup>8</sup>.
- 3.5** In June 2017, 18 men were detained and allegedly tortured during pre-trial detention. In February 2017, prison sentences ranging from 12 to 25 years were imposed for inciting social, ethnic or religious hatred and creating and financing crimes following a unfair trial that lasted a mere two hours. In April and May 2017, 50 more people who had taught or studied at Turkish or Turkmen universities in Turkmenistan were detained. In a closed trial held in July 2017, many received sentences of up to 20 years on similar charges to those sentenced in February 2017.<sup>9</sup>

#### **4. Freedom of expression, independence of the media and access to information**

- 4.1** Under the 2<sup>nd</sup> UPR cycle, the government received 17 recommendations relating to the freedom of expression and access to information. For example, the government pledged to “ensure that every citizen - including human rights defenders, leaders of opposition parties, religious believers, civil society activists and journalists can peacefully exercise their right to freedom of expression in conformity with Turkmenistan's obligations under the ICCPR.”<sup>10</sup> Of the recommendations received, 14 were accepted and three were noted. However, as discussed below, the government did not take effective measures to implement these recommendations, and has not implemented any of them.<sup>11</sup>
- 4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Article 26 of the Constitution of Turkmenistan also guarantees the right to the freedom of expression. However, even though legislation largely provides safeguards for the freedom of expression, in practice, media outlets are controlled and access to the internet and independent sources of information are restricted.<sup>12</sup>
- 4.3** Defamation is a criminal offence in Article 132 of the Criminal Code of Turkmenistan and defamation of the President, which is treated as equivalent to other attacks on the

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<sup>8</sup> Turkmenistan: Free 18 Men Tortured, Sentenced in Unfair Trial, Alternative Turkmen News et al. <http://iphronline.org/wp-content/uploads/2017/06/Joint-NGO-statement-Turkmenistan-June-2017.pdf>

<sup>9</sup> Ibid.

<sup>10</sup> UPR Info, Turkmenistan, <http://www.upr-info.org/database/>

<sup>11</sup> Ibid.

<sup>12</sup> Turkmen Initiative for Human Rights and International Partnership for Human Rights, op. cit.

President, can lead to a sentence of up to five years in prison. Article 337 of the Code of Administrative Offenses also criminalises defamation. The penalty is a fine of five to 10 times the minimum wage or administrative detention for up to 15 days.<sup>13</sup>

- 4.4** Access to the internet is limited and controlled by the state, even though the government has committed to give all citizens of Turkmenistan access by 2020. Some websites, such as those of CSOs and independent media, have been blocked by the government and citizens' internet usage is monitored. Facebook, Twitter, WhatsApp and other social media and communication tools have been restricted..<sup>14</sup>
- 4.5** The 2012 Media Law states that chief editors of Turkmen media outlets are appointed and dismissed by the founders of media outlets and not the President. However, on several occasions, the President has violated this law and the media remains an instrument of propaganda for the Turkmen Government. On 6 May 2017, the President appointed the chief editor for the regional state-controlled Maru-Sahu-Jahan newspaper after the previous chief editor resigned.<sup>15</sup>
- 4.6** To obtain a licence to establish a newspaper, individuals and private corporations are forced to pay a substantial fee of US\$30,000. This excessive amount acts as a considerable entry barrier for independent voices.<sup>16</sup>

## 5. Freedom of peaceful assembly

- 5.1** During Turkmenistan's examination under the 2<sup>nd</sup> UPR cycle, the government received five recommendations on the right to the freedom of assembly. Among other recommendations, the government committed to ensuring that "everyone, including human rights defenders, members of civil society and journalists can exercise their legitimate activities, even their rights to freedoms of expression and assembly in accordance with the obligations under the International Covenant on Civil and Political Rights." Turkmenistan accepted all five of the recommendations, but as evidenced below, has not implemented any of them.<sup>17</sup>
- 5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 43 of Turkmenistan's Constitution also guarantees the right to the freedom of

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<sup>13</sup> International Press Institute, Turkmenistan, <http://legaldb.freemedia.at/legal-database/turkmenistan/>

<sup>14</sup> IPHR Online, The Danger of Speaking Out in Central Asia, 12 September 2017, <http://iphronline.org/the-danger-of-speaking-out-in-central-asia.html>

<sup>15</sup> IPHR Online, UN Human Rights Body Echoes Civil Society Concerns on Turkmenistan, 18 May 2017, <http://iphronline.org/un-human-rights-body-echoes-civil-society-concerns-turkmenistan-20170518.html>

<sup>16</sup> Press Reference, Turkmenistan, <http://www.pressreference.com/Sw-Ur/Turkmenistan.html>

<sup>17</sup> UPR Info, Turkmenistan, <http://www.upr-info.org/database/>

assembly. However, in practice and policy there is not an enabling environment for free assembly, which results in public protests being rare in Turkmenistan.<sup>18</sup>

- 5.3** The 2015 Law on Organization and Conducting of Assemblies, Public Rallies, Demonstrations and other Mass Events governs the exercise of the freedom of assembly but is restrictive in several ways. Gatherings can only take place in certain locations and authorities can refuse permission to hold assemblies based on the grounds that the proposed venue is unsuitable. Article 7 of the law states that if more than one person takes part in a gathering, the authorities must be notified between 10 and 15 days before the event. Further, no assemblies that receive foreign funding, support or materials are allowed.<sup>19</sup> Article 276 of the Turkmen Criminal Code include prison terms of 3-8 years for “participating in mass riots” 5-15 years for organising them.<sup>20</sup>
- 5.4** Article 63 of the Code of Turkmenistan on Administrative Offences provides a penalty or administrative detention for up to 15 days for “unlawful assemblies” and “other mass events in an emergency situation.”<sup>21</sup> In contrast, the government mobilises and requires citizens to take part in mass gatherings to celebrate national occasions and the President’s visits to different parts of the country. In April 2017, the government forced citizens to take part in celebrating “a Month of Health and Happiness” through sport events across Turkmenistan.<sup>22</sup>

## **6. Recommendations to the Government of Turkmenistan**

CIVICUS calls on the Government of Turkmenistan to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31. The following specific recommendations are made:

### **6.1 Regarding the freedom of association**

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit the right to association.

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<sup>18</sup> Turkmen Initiative for Human Rights and International Partnership for Human Rights, op. cit.

<sup>19</sup> Ibid

<sup>20</sup> International Center for Not-for-Profit Law (ICNL), Turkmenistan,

<http://www.icnl.org/research/monitor/turkmenistan.html>

<sup>21</sup> Ibid

<sup>22</sup> Туркменистан: с населения собирают деньги на месячник "здоровья и счастья"

<https://rus.azathabar.com/a/28407764.html>

- Abolish criminal responsibility for organisation of and participation in the activities of non-registered organisations and lift the ban on the activities of non-registered organisations.
- Amend the 2014 Law on Public Associations and its 2017 amendments to guarantee that undue restrictions on the freedom of association are removed to bring their provisions into compliance with articles 21 and 22 of the ICCPR.

## **6.2 Regarding the protection of human rights defenders**

- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- Unconditionally and immediately release all HRDs, including journalists and bloggers, detained for exercising their fundamental rights to the freedoms of association, expression and peaceful assembly, and review their cases to prevent further harassment.
- Publicly condemn instances of harassment and intimidation of CSOs and activists.

## **6.3 Regarding the freedom of expression, independence of the media and access to information**

- Ensure the freedom of expression and media freedom by bringing all national legislation into line with international standards.
- Review the defamation articles in the Criminal Code and the Code of Administrative Offenses in order to ensure that legislation is in line with best practices and international standards in the area of the freedom of expression. In particular, reform defamation legislation in conformity with article 19 of the ICCPR.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may find sensitive.
- Guarantee unfettered access for all persons in Turkmenistan to domestic and foreign media information, both offline and online. As part of this, enable unfettered access to online information resources by removing restrictions on



access to national and international news websites, social media outlets and CSO websites.

#### **6.4 Regarding the freedom of peaceful assembly**

- Amend the 2015 Law on Organization and Conducting of Assemblies, Public Rallies, Demonstrations and other Mass Events in order to guarantee fully the right to the freedom of assembly.
- Ensure that participation in mass events is voluntary, and refrain from any reprisals for non-participation.

#### **6.5 Regarding access to UN Special Procedures mandate holders**

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on the rights to privacy and; 7) Working Group on Arbitrary Detention.

#### **6.6 Regarding State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of the UPR, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.