

**Human Rights Committee
Follow-up Procedure:
Turkmenistan**

CCPR/C/TKM/CO/1

Adoption of Concluding Observations: March 2012
Follow-up: The State party's follow-up report was submitted in August 2012; HRC follow-up conclusions were adopted in October 2013 and transferred to the State party in December 2013 with a request for additional information on measures taken to be considered by the Committee..



Turkmen Initiative for Human Rights and International Partnership for Human Rights

Follow-up Report on Turkmenistan to the United Nations Human Rights Committee*

January 2014 (update)

This document has been prepared as a contribution to the Human Rights Committee's follow-up to its March 2012 Concluding Observations on Turkmenistan and assesses the progress made by the State party with respect to the implementation of the recommendations selected for the follow-up procedure (the recommendations made in paragraphs 9, 13 and 18 of the Concluding Observations). It was originally prepared in 2012 but has been updated in view of the adoption of a first set of follow-up decisions on Turkmenistan by the Human Rights Committee in October 2013, in which the Committee deemed the State party responses unsatisfactory, reiterated its recommendations and requested additional information from the State party for further consideration by the Committee.

* The report has been prepared in consultation and coordination with the Centre for Civil and Political Rights (CCPR).

SUMMARY TABLE

Recommendations in par. 9	Grade	Overview
Revise the Criminal Code to incorporate a definition of torture in accordance with the Convention against Torture	B2	A new definition of torture has been incorporated into the Criminal Code, but comprehensive and effective measures are needed to give effect to this provision in practice.
Establish an independent oversight body to carry out inspections in all places of detention	C	To our knowledge, there has been no progress in this respect, and the Turkmen authorities have failed to put in place an independent and effective mechanism to monitor prison and detention facilities. Serious restrictions continue to be imposed on access to such facilities.
Ensure effective investigations of torture complaints, prosecution and punishment of perpetrators and adequate reparation for victims	C	There appears to have been no positive change in the situation in this regard, and the Turkmen authorities have failed to take effective measures to enhance efforts to investigate and punish torture and ill-treatment.
Allow visits of international humanitarian organizations to all places of detention	B2	While the authorities have organized a few visits for ICRC representatives to “acquaint” themselves with selected detention sites, this organization has not been granted unhindered access to all places of detention, which would enable it to carry out thorough monitoring in correspondence with its basic conditions, including private discussions with detainees of its choice and repeat visits as often as deemed necessary.
Recommendations in par. 13	Grade	Overview
Take measures to eradicate corruption by investigating, prosecuting and punishing alleged perpetrators of corruption, including judges	C	There are no indications that the State party has made any systematic efforts to investigate corruption allegations and bring perpetrators to justice, and corruption remains pervasive in the country.
Safeguard the independence of the judiciary, guarantee tenure of office of judges and sever the judiciary’s ties with the executive	C	The presidential administration continues to dominate all branches of power and judges are arbitrarily appointed and dismissed by the president. Serious concerns remain about the use of the court system to hand down convictions on politically motivated charges in unfair and closed trials.
Recommendations in par. 18	Grade	Overview
Uphold the right of journalists, human rights defenders and others to freedom of expression, and allow international human rights organizations into the country	C	The government continues to enforce its information monopoly with the help of state-controlled media and anyone who openly challenges government policies remain highly vulnerable to intimidation and harassment. International human rights NGOs and UN human rights mechanisms continue to be denied access to the country.
Ensure unrestricted access to the internet	C	Less than 10% of the population currently has access to the internet. Costs for internet access remain prohibitive and efforts to promote internet use are lacking. The internet remains heavily censored, and access is blocked to online content that authorities do not like. Internet activity e.g. on online forums is monitored by security services.
Ensure that any restrictions on the right to freedom of expression comply with art. 19§3 of the Covenant.	C	Freedom of expression continues to be restricted in ways that are not consistent with the provisions of the Covenant.

DETAILED ASSESSMENT**Paragraph 9**

The Committee is concerned at increased reports of torture and ill-treatment in places of detention where it is often used to extract confessions from accused persons, and the lack of an independent body to investigate abuse by law enforcement officers and to conduct regular visits to prisons and other places of detention. The Committee also expresses concern at the lack of a definition of torture in the State party's legislation. The Committee is further concerned that access to places of detention is denied to international human rights monitors (art. 7).

Recommendation of the Human Rights Committee	Grade	Assessment of the current situation	Additional measures needed by the State party
<p>The Committee recommends that the State party:</p> <p>(a) Revise its Criminal Code in order to incorporate a definition of torture that is in line with the definition under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;</p>	B2	<p>In August 2012, Turkmenistan's Criminal Code was amended so as to incorporate an article criminalizing "torture." This article (182-1¹) provides for a definition of torture that had previously been lacking and establishes penalties of three to eight years in prison for the use of torture, and of up to 15 years in prison in aggravated circumstances. This was a welcome development. However, it is also crucial that the Turkmen authorities take effective measures to implement the new article and to ensure that cases of torture are duly investigated and prosecuted under it.</p> <p>When visiting Turkmenistan in May 2013, UN Assistant Secretary General for Human Rights Ivan Simonovic found that there had been no investigations or criminal prosecutions for torture.² This highlights the need for comprehensive additional measures by the Turkmen authorities, in particular measures in line with the Committee's recommendations under b) to d) below, to ensure that the new provision of torture does not remain a dead letter but is used to ensure accountability for abuse in practice.</p>	<p>The State party should ensure effective implementation of the new provision on torture and keep the Committee updated about measures taken in this regard.</p>
<p>(b) Take appropriate measures to put an end to torture by, inter alia, establishing an independent oversight body to carry out independent inspections and investigations in all places of detention of alleged misconduct by law enforcement officials;</p>	C	<p>To our knowledge, there has been no progress in this respect, and the Turkmen authorities have failed to put in place an independent and effective mechanism to monitor prison and detention facilities.</p> <p>The State party has claimed that monitoring and supervisory commissions were created under a 2010 presidential decree to participate in the oversight of prisons³, and has indicated that such bodies may consist of representatives of "non-governmental organizations, unions, democratic parties and local authorities."⁴ We have no further information about the commissions referred to by the State party. However, there are serious doubts that such bodies may be able to play any</p>	<p>The State party should take adequate measures to implement the recommendation made by the Committee.</p>

¹ The text of the new provision (in Russian) is available here : <http://www.infoabad.com/zakonodatelstvo-turkmenistana/v-ugolovnyi-kodeks-turkmenistana-vnesena-novaja-statja-pytka.html>

² See statement at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13361&LangID=E>

³ Page 5 of the State party's August 2012 follow-up report to the Committee.

⁴ See statements made by the State party during the Committee's review in March 2012, <http://www.un.org/News/Press/docs/2012/hrct743.doc.htm>

		<p>independent or effective role in monitoring prison conditions in the current situation, where the government continues to promote GONGOs in place of real NGOs, there are no political opposition parties and criticism of official policies is suppressed. These concerns are further reinforced by the serious restrictions that continue to be imposed on access to detention and prison facilities in the country.</p> <p>In connection with the Universal Periodic Review of Turkmenistan in 2013, the Turkmen government undertook to ratify the Optional Protocol to the Convention against Torture and establish an independent national prevention and monitoring mechanism under this protocol.⁵ Our organizations do not have information about any measures taken by the State party to follow up on this pledge.</p> <p>We believe that the Committee should insist that the State party grants truly independent national and international bodies access to all detention and prison facilities.</p>	
(c) (...) The State party should also ensure that allegations of torture and ill-treatment are effectively investigated, and that perpetrators are prosecuted and punished with appropriate sanctions, and that the victims receive adequate reparation; and	C	<p>To our knowledge, there has been no positive change in the situation in this regard, and the Turkmen authorities have failed to take effective measures in practice to enhance efforts to investigate and punish torture and ill-treatment in response to the recommendation made by the Committee.</p> <p>As noted above, when visiting Turkmenistan in May 2013, UN Assistant Secretary General for Human Rights Ivan Simonovic found that no investigation had been carried out on the basis of the new Criminal Code article on torture that was introduced in 2012. He was told that Prosecutor's General's Office had not received any allegations of torture nor initiated any investigations ex officio.⁶</p>	The State party should take adequate measures to implement the recommendation and provide the Committee with detailed information about steps taken, in particular statistics concerning prosecutions and convictions for torture and ill-treatment.
(d) Allow visits by recognized international humanitarian organizations to all places of detention.	B2	<p>The Turkmen authorities organized visits for International Committee of the Red Cross (ICRC) delegates to "acquaint" themselves with a prison medical institution in July 2011, as well as with a youth prison and the construction site of a new women's prison in April 2012.⁷ The visits did not include any private meetings with inmates.⁸ While the Turkmen authorities have continued discussions on cooperation with the ICRC, no new visits have been reported and, as previously, the ICRC has not been granted unhindered access to the country's detention facilities, which would enable it to carry out thorough monitoring in correspondence with its basic conditions, including private discussions with detainees of its choice and repeat visits as often as deemed necessary.</p>	The State party should grant the ICRC, as well as other independent international organizations unrestricted access to all the country's detention facilities.

⁵ See recommendations accepted by Turkmenistan (among others recommendation 113.2), http://www.upr-info.org/IMG/pdf/recommendations_and_pledges_turkmenistan_2013.pdf

⁶ See statement at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13361&LangID=E>

⁷ As reported by the state Party on p. 6 in its August 2012 follow-up report, as well as by the ICRC, <http://www.icrc.org/eng/resources/documents/news-release/2012/turkmenistan-news-2012-04-09.htm>

⁸ Radio Free Europe/Radio Liberty, "Red Cross Visits Turkmenistan," 10 April 2012, at http://www.rferl.org/content/red_cross_visits_turkmenistan/24543440.html

	No other independent international organizations have been allowed to visit any detention facilities in the country.	
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Paragraph 13

The Committee expresses concern at reports that corruption is widespread in the judiciary. The Committee also expresses concern at the lack of an independent judiciary in the State party particularly with regard to tenure of office since judges are appointed by the President for renewable terms of five years. The Committee is concerned that this lack of security of tenure has the effect of exerting undue influence by the executive on the administration of justice in the State party (arts. 2 and 14).

Recommendation of the Human Rights Committee	Grade	Assessment of the current situation	Additional measures needed by the State party
The State party should take measures to eradicate corruption by investigating, prosecuting and punishing alleged perpetrators, including judges who may be complicit.	C	<p>Corruption remains rampant in Turkmenistan, and there are no indications that the State party has made any systematic efforts to investigate corruption allegations and hold perpetrators accountable, in response to the Committee's recommendation.</p> <p>In Transparency International's Corruption Perceptions Index 2013, Turkmenistan was ranked among the ten worst of 175 countries, with its score unchanged from the previous year (17 on a scale from 0-100 where 0 represents the highest level of corruption).⁹ As documented by TIHR in a number of recent reports, corrupt practices are pervasive among different authorities, as well as education, health care, banking and other state-run institutions.¹⁰ TIHR's monitoring shows that citizens have to pay bribes for ensuring different types of basic services (ranging from getting through a traffic control to securing employment, business licenses or school enrolment for children),¹¹ while executives at all levels abuse their position for personal gain.¹²</p> <p>In the autumn of 2013, the Turkmen president initiated a series of dismissals of high-level prosecutors, government officials and heads of state enterprises, accusing them of shortcomings in their work, abuse of office, and corruption. Among those fired were the country's general prosecutor and the prosecutor of the capital Ashgabat. In relation to the latter, as well as some other officials, criminal investigations on bribery and other charges were also opened.¹³ However, like previous reshuffles among top officials in Turkmenistan, the autumn campaign</p>	The State party should acknowledge the serious level of corruption in the country and take robust and effective measures to eradicate it, including by ensuring transparency, accountability and oversight throughout the public sector and by systematically investigating corruption allegations and bringing perpetrators to justice.

⁹ Transparency International, *Corruptions Perception Index 2013*, <http://www.transparency.org/cpi2013/results>

¹⁰ See TIHR news releases, "Bribery is a common phenomenon in Turkmenistan," 6 December 2013, <http://www.chrono-tm.org/en/2013/12/bribery-is-a-common-phenomenon-in-turkmenistan/>; and "The corruption level in Turkmenistan remains one of the highest in the world," 15 July 2013, <http://www.chrono-tm.org/en/2013/07/the-corruption-level-in-turkmenistan-remains-one-of-the-highest-in-the-world/>

¹¹ TIHR, "We live like we pay," 12 April 2013, <http://www.chrono-tm.org/en/2013/04/we-live-like-we-pay/>

¹² TIHR, "All pervasive arbitrariness," 7 October 2013, <http://www.chrono-tm.org/en/2013/10/all-pervasive-arbitrariness/>

¹³ See TIHR news releases, «Бывший прокурор Ашхабада признал свою вину и дал показания», 21 September 2013, <http://www.chrono-tm.org/2013/09/byivshiy-prokuror-ashhabada-priznal-svoyu-vinu-i-dal-pokazaniya/>; and "Prosecutor, fried fish and teryak," 8 October 2013, <http://www.chrono-tm.org/en/2013/10/prosecutor-fried-fish-and-teryak/>

		appeared to be mainly about maintaining control and ensuring loyalty within the country's closed, non-transparent and repressive governance system rather than forming part of a coherent anti-corruption effort.	
The State party should take all necessary measures to safeguard the independence of the judiciary by guaranteeing their tenure of office, and sever the administrative and other ties with the Executive Office.	C	<p>As previously, the constitutional principle of separation of powers is not enforced in Turkmenistan, and the presidential administration continues to dominate all branches of power. Thus, the country's judiciary is not independent. According to our information, judges continue to be appointed and dismissed by the Turkmen president without any legislative review.</p> <p>Serious concerns remain about the use of the court system to hand down convictions on politically motivated charges in unfair and closed trials. Unknown numbers of individuals continue to serve prison sentences on such charges (the secrecy surrounding trials and imprisonments makes it impossible to determine even an approximate number of victims). Former Foreign Minister Boris Shikhmuradov and dozens of other individuals who were convicted and given lengthy prison sentences in show trials held after the purported November 2002 assassination attempt on late President Saparmurad Niyazov remain disappeared.¹⁴</p>	The State party should take adequate measures to implement the recommendation made by the Committee. It should also ensure that the country's courts are not used to punish individuals for politically motivated purposes in unfair trials. It should immediately release all individuals who are currently imprisoned on such grounds and disclose the faith of those who have disappeared in prison.

Paragraph 18

The Committee expresses concern at reports that the State party systematically does not respect the right to freedom of expression. The Committee, in particular, expresses concern at reports of the harassment and intimidation of journalists and human rights defenders in the State party, and its refusal to grant entry visas to international human rights organizations. The Committee is also concerned at allegations that the State party monitors the use of the Internet and blocks access to some websites (art. 19).

Recommendation of the Human Rights Committee	Grade	Assessment of the current situation	Additional measures needed by the State party
The State party should ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression in accordance with the Covenant, and also allow international human rights organizations into the country.	C	Freedom of expression remains seriously curtailed in the country. As previously, all media in the country are tightly controlled by the government, in spite of the entry into force in January 2013 of a first-ever Law on Media that prohibits censorship and unlawful interference in the media and sets out as objectives of state policy to guarantee media pluralism and independence. Those few local journalists who contribute to independent foreign media such as Radio Free Europe/Radio Liberty, civil society activists, and other members of civil society who dare to openly challenge official policies remain highly vulnerable to intimidation and harassment. In a well-documented pattern, surveillance, interrogations, "blacklists" for travel abroad, and detentions and imprisonments on politically motivated grounds are used to punish and put pressure on critical voices. In a recent example, Radio Free	The State party should take adequate measures to implement the recommendation made by the Committee.

¹⁴ On this issue, see also "Turkmenistan : Prove They are Alive," 7 October 2013, <http://civicsolidarity.org/article/809/turkmenistan-prove-they-are-alive>

		<p>Europe/Radio Liberty journalist Rovshen Yazmuhamedov was detained without explanation for two weeks in May 2013 after publishing several articles that generated active discussion on the service's website. In another example, former government minister Geldimurat Nurmuhamedov was arrested and forcibly held in a drug treatment clinic in October 2012-July 2013 after openly criticizing the political situation in the country and seeking to register an initiative group to nominate candidates for the December 2013 parliamentary elections.¹⁵</p> <p>International human rights NGOs have not been permitted access to Turkmenistan and requests made by ten UN human rights mechanisms to visit the country have not been granted, leaving the Special Rapporteur on Religion the only one to have been received by the Turkmen authorities (in 2008).¹⁶</p>	
<p>The State party should ensure that individuals have access to websites and use the Internet without undue restrictions.</p>	<p>C</p>	<p>The internet is still available only to a small fraction of the population, or 7% according to statistics from from the International Telecommunications Union,¹⁷ and costs for private internet access remain high.¹⁸ Only about a dozen internet cafes exist in the country, and visitors to these are required to provide ID information and their online activities are monitored by security services. Moreover, the internet remains heavily censored in Turkmenistan. Websites that provide alternative information about the situation in the country such as foreign news sites, NGO sites and sites associated with the exiled opposition are blocked for users. Social network sites are also often inaccessible except through proxy servers, and several online communication services designed for use through mobile internet have recently been blocked.¹⁹ Internet forums are held under close surveillance.</p> <p>The website of Austria-based Turkmen Initiative for Human Rights (TIHR), which is well-known for its independent coverage of developments in Turkmenistan, has repeatedly been subjected to hacker attacks. There is strong reason to suspect that the Turkmen security services are behind these attacks. A December 2012 attack brought TIHR's website offline for a month. In connection with this attack, material insulting and intimidating TIHR Chairman Farid Tubhatullin and his family members were also posted on the site. The attack took place shortly after TIHR published a story about two students who died after contradicting pneumonia when they were forced to participate in prolonged rehearsals for official holiday celebrations,</p>	<p>The State party should take effective steps to promote internet access, ensuring that access is widely available, affordable and meets reasonable quality standards. It should stop blocking websites simply because they contain information that challenge official policies; put an end to systematic monitoring of internet use; and refrain from any measure that serve to punish or obstruct the free use of the internet.</p>

¹⁵ See TIHR, "Geldymurat Nurmukhamedov released from imprisonment," 19 July 2013, at <http://www.chrono-tm.org/en/2013/07/geldymurat-nurmukhamedov-released-from-imprisonment/>

¹⁶ Information last updated as of 16 January 2014, at <http://www.ohchr.org/EN/HRBodies/SP/Pages/countryvisits-e.aspx>

¹⁷ Statistics for 2012, available at <http://www.itu.int/ITU-D/ict/statistics/index.html>

¹⁸ As regards internet costs, the state-owned Turkmen Telecom currently offers home internet access at a speed of 2 MB/second for max 10 GB at a price of 382 manat (appr. 100 EUR) per month, while unlimited internet access at a speed of 0.5 MB/second costs 600 manat (appr. 155 EUR) per month. See <http://www.online.tm>. The private MTS cell phone provider offers a package of mobile internet for a total of 1.5 GB to be used in 30 days for 95 manat (appr. 25 EUR). See http://www.mts.tm/rus/services/corpinetnet/mts_internet_r/bundles/. In comparison, the minimum monthly salary in the country was officially set at 485 manat (125 EUR) in 2013.

¹⁹ See TIHR, "Messengers are blocked in Turkmenistan," 22 November 2013, <http://www.chrono-tm.org/en/2013/11/messengers-are-blocked-in-turkmenistan/>

		dressed in light clothes despite chilly weather.	
The Committee, therefore, urges the State party to take all necessary steps to ensure that any restrictions on the exercise of freedom of expression fully comply with the strict requirements of article 19, paragraph 3, of the Covenant as further set out in its general comment No. 34 (2011) on freedoms of opinion and expression.	C	As described above, freedom of expression remains seriously restricted in Turkmenistan and no adequate steps have been taken by the authorities of the country to address problems in this area and ensure compliance with article 19 of the Covenant.	The State party should take adequate measures to implement the recommendation made by the Committee.

Explanation of the grades used:

Grade A: Implementation satisfactory:

- A1: Recommendation(s) fully implemented
- A2: Recommendation(s) mostly implemented

Grade B: Implementation partially satisfactory:

- B1: Some progress has been achieved on implementing the recommendation(s), but additional measures are needed
- B2: Some initial steps have been taken in response to the recommendation(s), but considerable additional measures are needed

Grade C: State response not satisfactory:

- C: No measures have been taken by the State party to implement the recommendation(s)

Brief information about the submitting organizations:

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
Vienna, Austria
Tel.: +43-699-1 944 13 27
Email: 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
Brussels, Belgium
Tel.: +32 2 227 6145
Email: IPHR@IPHRonline.org
Website: <http://www.IPHRONline.org>