



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States parties  
under the Covenant**

**Initial periodic report**

**Turkmenistan\***

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## Report of Turkmenistan on the implementation of the International Covenant on Civil and Political Rights<sup>1</sup>

### Article 1

1. The right of the Turkmen people to self-determination was realized in 1990 on the basis of the Declaration of State Sovereignty of the Turkmen Soviet Socialist Republic (hereafter “Declaration of State Sovereignty” and “Turkmen SSR”), adopted by the Turkmen Supreme Soviet on 22 August 1990. According to the declaration, the Turkmen Supreme Soviet, expressing the will of the people of Turkmenistan, aware of its responsibility for the destiny of Turkmen nation, realizing the nation’s right to self-determination, with a view to the full political, economic, social, intellectual and cultural development of the people, the comprehensive guarantee of rights and freedoms of citizens, and considering Turkmenistan to be a full-fledged and independent member of the international community, proclaimed Turkmen SSR’s national sovereignty, namely its supremacy, independence, completeness and indivisibility over its entire territory, and the pursuit of independence and equal rights in foreign relations.

2. According to the declaration, the territory of Turkmen SSR within the existing boundaries is inviolable and may not be changed or used in any way without the will of the Turkmen people. The inviolability and indivisibility of the country was also proclaimed in the Constitutional Act on the independence and State structure of Turkmenistan of 27 October 1991 (hereafter “Constitutional Act”).

3. The land, subsoil, airspace, waters and other natural resources located in the territory of Turkmenistan and its exclusive economic zone are national assets and the property of the Turkmen people and serve as the material basis for the sovereignty of Turkmenistan. The people of Turkmenistan have an exclusive right to the possession, use and management of this wealth and of the economic, scientific and technical potential created within the national territory (Declaration of State Sovereignty and Constitutional Act). Turkmenistan acts at its own discretion to establish, within the national territory, a system for the protection of the natural environment and of the use of natural resources and ensures environmental safety to the people of Turkmenistan; and to prevent forms of production harmful to the environment and human health (Declaration of State Sovereignty). Turkmenistan declares its territory free from nuclear, chemical, bacteriological and other types of weapons of mass destruction (Constitutional Act).

4. The Declaration of State Sovereignty served as a basis for drawing up the new Constitution of Turkmenistan and new national legislation. On 18 May 1992, the people of Turkmenistan, based on its inalienable right to self-determination, proceeding from its responsibility for the present and future of its homeland, loyal to its ancestors’ principles of living in unity, peace and concord, pursuing the goal of protecting its national values and interests, securing its sovereignty, guaranteeing the rights and freedoms of every citizen and striving to provide civic peace and national harmony and to strengthen the foundations of people’s power and the rule of law, adopted the Constitution - or Basic Law - of Turkmenistan.

5. The People’s Council (Khalk Maslakhaty<sup>2</sup>) of Turkmenistan, at its twenty-first (last) session, which took place at Ashgabat on 26 September 2008, adopted a new version of the Constitution, laying down new principles of State structure, confirming the principle -

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<sup>1</sup> Hereafter referred to as THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

<sup>2</sup> People’s Council of Turkmenistan

recognized by the international community - of separation of powers, outlining the development of democratic processes in society and, in accordance with international standards, proclaiming and enlarging the scope of human and civil rights and fundamental freedoms in Turkmenistan.

6. Under article 1 of the Constitution, Turkmenistan is a democratic and secular State governed by the rule of law and having the form of a presidential republic. Turkmenistan exercises supreme and full power over its territory, and implements its domestic and foreign policies independently. The sovereignty and territory of Turkmenistan are integral and indivisible. The Government defends the independence, territorial integrity and constitutional order of Turkmenistan and ensures legality and the rule of law. By law, Turkmenistan has a status of permanent neutrality. The General Assembly of the United Nations, in resolution A/RES/50/80 of 12 December 1995, stated that it:

“1. Recognized and supported the status of permanent neutrality declared by Turkmenistan;

2. Called upon States Members of the United Nations to respect and support that status and to respect the country’s independence, sovereignty and territorial integrity”.

Turkmenistan’s permanent neutrality, acknowledged by the international community, forms the basis of the country’s domestic and external policy.

7. The people of Turkmenistan is the bearer of sovereignty and sole source of State power. The people exercises its power directly or through representative bodies. No segment of the population, no organization, and no individual has the right to appropriate governmental power.

8. Under article 9 of the Constitution, property is inviolable. Turkmenistan respects the right to own private property, such as means of production, land and other material and intellectual items of value. They may be also owned by the State and by associations of citizens. The law provides for assets which may be only property of the State. Under the Property Act of 1 October 1993, assets under State ownership - the subsoil, forests, water resources, airspace, territorial waters and exclusive-economic-zone resources, natural sites protected by the State or reserved for special use, elements of the country’s historical and cultural heritage (unique cultural and natural sites and creations of nature, history, culture, science and technology, including valuable items preserved in State museums, archives and libraries, and the facilities and buildings housing such items) are exclusive property of the State (article 12). Under the Air Code of 18 June 1996, Turkmenistan enjoys full and exclusive sovereignty over its airspace, which is an integral part of the national territory (article 1). Under the Forest Code of 12 April 1993, forests constitute national wealth, an important natural factor of environmental balance and the exclusive property of the State (article 1). Under the Water Code of 25 October 2004, the country’s water resources as a whole are the exclusive property of the State (article 4). State ownership of inter-State (transboundary) waters is determined by agreements between States adjacent to the given water areas. Under the Animal Resources Protection and Sound Use Act of 12 June 1997, the fauna is the exclusive property of the State (article 2).

9. Under article 6 of the Constitution, Turkmenistan, as a full-fledged member of the international community, pursues a foreign policy based on the principles of permanent neutrality, non-interference in the internal affairs of other countries, renunciation on the use of force and on participation in military blocs and unions, and promotion of peaceful, friendly and mutually advantageous relations with the countries of the region and States throughout the world. Where an international agreement concluded by Turkmenistan provides otherwise than domestic law, the provisions of the international agreement are adopted.

10. General Assembly resolution 63/210 entitled “Reliable and stable transit of energy and its role in ensuring sustainable development and international cooperation” was adopted with the support of 192 States on 19 December 2008 on Turkmenistan’s initiative. The resolution confirms the growing role of the transit of energy in global operations and focuses specifically on the launching of international cooperation in ensuring the smooth functioning of energy routes. Turkmenistan’s active collaboration with neighbouring areas in the fuel and energy sector will not only offer prosperity to the Turkmen population and the other peoples of the region, but also contribute appreciably to building the global energy security system.

## Article 2

11. Under article 3 of the Constitution, the society and State of Turkmenistan place the highest value on the person. The State is responsible to the citizen, ensures appropriate conditions for the free development of the personality and protects the life, honour, dignity, freedom, personal inviolability and natural and inalienable rights of the citizen. The citizen is responsible to the State for meeting his/her obligations under the Constitution and the laws.

12. Under article 8 of the Constitution, foreign citizens and stateless persons enjoy the rights and freedoms and have the obligations of a Turkmen citizen, in accordance with the legislation and Turkmenistan’s international agreements. Turkmenistan extends the right of asylum to foreign citizens and stateless persons according to the universally recognized international-law standards and the procedure established by law.

13. Under article 19 of the Constitution, Turkmenistan guarantees the equality of human and civil rights and freedoms irrespective of ethnic background, race, gender, origin, wealth, official status, place of residence, language, attitude to religion, political views, party affiliation or lack of affiliation to any party.

14. Under article 5 of the Constitution, the Constitution is the Basic Law of the State. The rules and provisions established therein are directly enforceable. Acts or other legal instruments at variance with the Constitution have no legal effect.

15. Under the same article, legal acts affecting human and civil rights and freedoms and not made publicly known are invalid from the moment of their adoption

16. Under article 18 of the Constitution, human rights are inviolable and inalienable. No one may deprive a person of any rights or freedoms or restrict his/her rights or freedoms unless the Constitution or the law otherwise provide. Reference to certain human rights and freedoms in the Constitution and the laws may not be used to deny or restrict other rights and freedoms.

17. Under article 20 of the Constitution, men and women in Turkmenistan have equal civil rights. Gender-based violations of equality are illegal.

18. The Act on challenging in court the actions of State bodies, public associations, local Government bodies and officials that violate constitutional civil rights and freedoms of 6 February 1998 allows citizens to challenge in court the actions or decisions of the bodies and officials in question and lays down the procedure for considering such grievances.

19. The Complaints by Citizens and Procedure for their Consideration Act of 14 January 1999 specifies a mechanism allowing citizens to exercise their right to file complaints against State, public and other bodies, enterprises, organizations and establishments of any type of ownership and regulates the procedure for considering such complaints.

20. The State Commission for the review of citizens' complaints about the activity of law-enforcement agencies, created by Presidential Decree of 19 February 2007, serves the purpose of strengthening the democratic basis of State and public activities, ensuring the protection of individual rights and freedoms enshrined in the Constitution, and improving the procedures for treating the complaints in question.

21. The society and State of Turkmenistan place the highest value on the person. Under article 3 of the Universal Declaration of Human Rights, "everyone has the right to life, liberty and security of person". Under article 6 (1) of the International Covenant on Civil and Political Rights, "every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his/her life." On 27 December 1999 the People's Council decided in favour of Turkmenistan's accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, which in article 1 provides as follows: "No one within the jurisdiction of a State Party to the present Protocol shall be executed". That step provided further confirmation that the country strictly abides by the principles of humanism, democracy and protection of human rights and fundamental freedoms. The Constitution of Turkmenistan, aligned with international standards stipulating the abolition of capital punishment, provides as follows:

"Article 22: Every person enjoys the right to life and the freedom to lead his/her life. No one may be deprived of the right to life. The right of every person to a free life is protected by the State on the basis of the law. Capital punishment has been abolished in Turkmenistan."

22. The Turkmen Citizenship Authority is governed by the Constitution of Turkmenistan and by the Turkmen Citizenship Act of 30 September 1992, as amended and supplemented by the Act of 14 June 2003.

23. Turkmenistan has its own citizenship. Citizenship is acquired, maintained or forfeited as provided by law. Citizenship of another State may not be recognized to a Turkmen citizen. No one may be deprived of his/her citizenship or of the right to change it. Turkmen citizens may not be extradited or exiled to another State nor may their right to return to Turkmenistan be restricted. The Turkmen State defends and protects Turkmen citizens at home and abroad.

24. Under article 1 of Turkmen Citizenship Act, Turkmen citizenship is an inalienable attribute of national sovereignty, implies that an individual is a member of the State, establishes the legal relations between them and determines all of their mutual rights and obligations. Turkmenistan, through its organs and officials, is accountable to Turkmen citizens and a Turkmen citizen is accountable to the State. He/she is expected to abide by the Constitution and laws, fulfil the responsibilities stipulated therein, protect the interests and defend the territorial integrity of Turkmenistan, and respect the culture, customs, traditions and language of the Turkmen people and the members of all ethnic groups residing in the country

25. Turkmen citizenship is obtained by birth or on other bases, as provided by law. A Turkmen citizen's permanent or temporary residence in the territory of another State, marriage to a citizen of another State or a stateless person or dissolution of such marriage do not entail termination of his/her Turkmen citizenship.

26. Turkmen citizenship is relinquished by petition of the person concerned according to the procedure established by the Turkmen Citizenship Act. Such relinquishment is not allowed, if the petitioner is accused in a criminal case or subject to the enforcement of a valid court sentence or owes taxes or has other outstanding debts and liabilities to the State, other Turkmen citizens, or enterprises, organizations or establishments located in Turkmenistan.

27. Under article 23 of the Turkmen Citizenship Act, Turkmen citizenship may be forfeited on the following grounds:

(a) Entry in the military, security service, police, judiciary or other political or administrative authorities of another State, except in cases provided for in inter-State agreements concluded by Turkmenistan;

(b) Acquisition of Turkmen citizenship on the basis of knowingly false information or counterfeit documents;

(c) Grounds provided for in inter-State agreements concluded by Turkmenistan.

28. Turkmen citizenship is substantiated by a Turkmen passport. Over the age of 16, every Turkmen citizen must have a passport. The validity of a passport is not limited in time.

29. The legal framework guaranteeing the constitutional rights and freedoms of the citizens is the national legal system, which includes the Constitution, the laws, other regulatory and legal instruments and international human rights conventions.

30. Under article 53 (10) of the Constitution, the President of Turkmenistan settles issues related to the acquisition and termination of Turkmen citizenship and to the granting of asylum.

31. Under article 5 of the Turkmen Citizenship Act, Turkmen citizenship is equal for all citizens regardless of the grounds on which it was acquired.

32. The unfounded refusal to accept an application for citizenship, non-compliance with time limits for the examination of such applications and other improper acts by officers in violation of the procedures for considering and deciding on matters related to citizenship may be contested according to the relevant legal procedure by appealing to the superior echelon or to a court of law.

33. The State, its diplomatic missions and consular offices and their officials are obligated to take measures to ensure that Turkmen citizens may fully exercise all rights extended to them by the legislation of a host country and by international agreements, to which Turkmenistan and the host country are parties.

34. If in a host country there are no Turkmen diplomatic missions or consular offices, the appropriate organs of other States may protect the rights and legitimate interests of Turkmen citizens in accordance with inter-State agreements concluded by Turkmenistan.

35. The legal status of foreign citizens is regulated by the Constitution and the Foreign Citizens Legal Status Act of 8 October 1993, as amended and supplemented by the Acts of 24 November 1995, 19 December 2000 and 14 June 2003.

36. Under article 1 of the Foreign Citizens Legal Status Act, foreign citizens in Turkmenistan are persons who are not Turkmen citizens and have proof of their citizenship of another State. Under the Constitution, foreign citizens in Turkmenistan enjoy the rights and freedoms provided by law.

37. Under article 3 of the Foreign Citizens Legal Status Act, foreign citizens in Turkmenistan are equal before the law regardless of their origin, social status, wealth, race, ethnic background, gender, education, language, attitude to religion, type of occupation, or other factors. With regard to citizens of States where the rights and freedoms of Turkmen citizens are subject to special limitations, the President of Turkmenistan may establish restrictions on a reciprocal basis. The enjoyment of rights and freedoms by foreign citizens in Turkmenistan may not infringe the interests of society or the State, or the rights and legitimate interests of Turkmen citizens and other persons.

38. The realization of the rights and freedoms extended in Turkmenistan to foreign citizens is inseparable from the fulfilment of their obligations under the law.

39. Foreign citizens in Turkmenistan must abide by the Constitution, comply with the country's laws and respect Turkmenistan's national customs and popular traditions.
40. Foreign citizens may reside in Turkmenistan permanently, provided they have the relevant authorization and residence permit, duly issued by a unit of the Turkmen Immigration Department.
41. Foreign citizens permanently residing in Turkmenistan may work as labourers or employees in enterprises, establishments and organizations or engage in another type of work on the basis and according to procedures applicable to Turkmen citizens.
42. Foreign citizens residing in Turkmenistan temporarily may engage in work compatible with the purpose of their stay, provided the character of that activity is not contrary to Turkmen law.
43. Foreign citizens may not perform certain duties or engage in certain types of work for which, under the law, Turkmen citizenship is a prerequisite.
44. Foreign citizens admitted to Turkmen educational institutions have the rights and obligations of learners and students in accordance with Turkmen law and the agreements with their States of citizenship.
45. Foreign citizens in Turkmenistan may marry and divorce Turkmen citizens or other foreign citizens residing in the country, in accordance with Turkmen law (article 15 of the Marriage and Family Code of 25 December 1969 and article 17 of the Foreign Citizens Legal Status Act).
46. Foreign citizens in Turkmenistan have the same marriage and family rights and responsibilities as Turkmen citizens.
47. Turkmen law guarantees foreign citizens in Turkmenistan the inviolability of their person and their home.
48. Foreign citizens may move about in Turkmen territory and choose their place of residence in accordance with the procedure stipulated by law.
49. Foreign citizens in Turkmenistan are subject to taxes and levies on a common basis with Turkmen citizens, unless Turkmen law otherwise provides.
50. Foreign citizens in Turkmenistan have the right to appeal to courts of law, other public authorities and the diplomatic missions and consular offices of their countries for the protection of their individual, property and other rights.
51. Foreign citizens enjoy in courts of law the same procedural rights as Turkmen citizens.
52. Foreign citizens in Turkmenistan may not elect or be elected to elective State bodies, or participate in nation-wide elections or referendums.
53. Foreign citizens have no obligation to serve in the Armed Forces of Turkmenistan.
54. Under article 99 of the Constitution, citizens are guaranteed legal protection of honour and dignity, and of the individual and political human and civil rights and freedoms enshrined in the Constitution and the laws. Judicial power in Turkmenistan belongs only to the courts and is intended to protect civil rights and freedoms and such State and public interests as are protected by law. Under article 43 of the Constitution, citizens may challenge before a court of law the decisions and actions of State bodies, public associations and officials. Under article 108 of the Constitution, the right to professional legal assistance is recognized at any stage of legal proceedings.



55. Under article 5 of the Justice Act of 15 August 2009, justice in Turkmenistan is meted out on the basis of equal rights and freedoms, the adversarial system, and the equality of all before the law and in court regardless of ethnic background, race, gender, origin, wealth, official capacity, place of residence, language, attitude to religion, political views, party affiliation, non-affiliation with any party or other factors not stipulated by law.

56. Under article 20 of the Criminal Procedure Code of 15 August 2009 and article 5 of the Civil Procedure Code of 29 December 1963, administration of justice is based on the principles of the equality of all citizens before the law and in court regardless of origin, social status, wealth, race, ethnic background, gender, education, language, attitude to religion, type of occupation, place of residence, or other factors.

57. Under article 1 of the Act on challenging in court the actions of State bodies, public associations, local Government bodies and officials that violate constitutional civil rights and freedoms, any citizen whose constitutional rights or freedoms are violated or impaired by actions or decisions of the bodies and officials in question may file a complaint with a court of law. Foreign citizens and stateless persons file such a complaints in accordance with the procedure established by law, unless Turkmenistan's law or international agreements otherwise provide.

58. The following institutional mechanisms are entrusted with protecting human rights:

- The Procurator-General and his/her subordinate public procurators, who, in accordance with the Constitution and the Public Prosecution Act of 15 August 2009, are responsible for monitoring compliance with the laws and the Acts adopted by the President of the Republic, the Council of Ministers and the Parliament (Majlis Turkmenistana<sup>3</sup>)
- The internal affairs bodies, which, according to the Internal Affairs Bodies Act of 7 July 2001, are part of the system of law-enforcement agencies, protect law and order, ensure the protection of the citizens' life, health, rights and freedoms and defend the interests of society and the State against criminal and other infringements
- The national security agencies, which are specialized bodies within State administration and, under the National Security Agencies Act of 12 April 1993 and within the limits stipulated by law, protect individuals, society and the State against internal and external threats in the framework of the country's general security system.

59. Under article 12 of the Constitution, the State guarantees freedom of religion and belief, the equality of religions before the law, and the rights of all to determine for themselves their attitude to religion, whether to practise a religion alone, in community with others or not at all, to express and disseminate views based on their attitude to religion, and to take part in religious worship or the celebration of rituals and rites.

60. The Freedom of Religion and Religious Organizations Act of 21 October 2003, as amended and supplemented by the Act of 16 March 2004, confirms the citizens' constitutionally guaranteed right to freedom of religion and the citizens' equality before the law in all areas of civil, political, economic, social and cultural life, regardless of the citizens' religious persuasion.

61. Foreign citizens have the same rights and responsibilities with regard to employment as Turkmen citizens.

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<sup>3</sup> Parliament of Turkmenistan

62. Under article 8 of the Foreign Citizens Legal Status Act, foreign citizens in Turkmenistan are entitled to leisure on a common basis with Turkmen citizens.
63. Under article 9 of the Foreign Citizens Legal Status Act, foreign citizens in Turkmenistan are entitled to health protection and to using the network of public health and medical care establishments on the basis and according to the procedure provided for by law.
64. Under article 10 of the Foreign Citizens Legal Status Act and article 3 (2) of the Social Security Code of 17 March 2007, foreign citizens and stateless persons permanently residing in Turkmenistan are entitled to receive allowances, pensions and other social security benefits on the basis and according to the procedure provided for by law and Turkmenistan's inter-State agreements.
65. Under article 11 of the Foreign Citizens Legal Status Act, foreign citizens permanently residing in Turkmenistan are entitled to housing in accordance with Turkmen housing legislation.
66. Under article 2 (3) of the Civil Code, foreign citizens may, in Turkmenistan and in accordance with the law, own a residence or other property; inherit and bequeath property; have the copyright on scientific, literary and artistic works, discoveries, inventions, rationalization proposals and industrial standards; and possess other property and individual non-property rights. The parties to civil law relations may be individuals, legal entities and the State. This rule applies to Turkmen citizens, foreign citizens and stateless persons regardless of whether they engage in business.
67. Under article 13 of the Foreign Citizens Legal Status Act and article 40 (5) of the Education Act of 15 August 2009, foreign citizens in Turkmenistan have a right to education on an equal footing with Turkmen citizens in accordance with the procedure provided for by law.
68. Under article 14 of the Foreign Citizens Legal Status Act, foreign citizens in Turkmenistan have the right to enjoy cultural attainments on an equal footing with Turkmen citizens.
69. Under the Public Associations Act of 21 October 2003 and article 15 of the Foreign Citizens Legal Status Act, foreign citizens permanently residing in Turkmenistan may join public associations, if the associations' regulations so provide.
70. Under article 16 of the Foreign Citizens Legal Status Act and article 3 of the Freedom of Religion and Religious Organizations Act, foreign citizens in Turkmenistan are guaranteed freedom of religion and belief on an equal footing with Turkmen citizens.
71. Under article 28 of the Foreign Citizens Legal Status Act, foreign citizens having committed crimes or administrative or other offences in the Turkmen territory are liable just as Turkmen citizens in accordance with the law. Under article 8 of the Criminal Code of 12 June 1997, for a crime committed abroad, foreign citizens and stateless persons not permanently residing in Turkmenistan are liable under Turkmen criminal law in cases where the crime targeted Turkmenistan or Turkmen citizens and in cases, provided for in Turkmenistan's international agreements, where such persons were not condemned in another State and were brought to justice in the territory of Turkmenistan. Under article 16 of the Administrative Offences Code of 17 December 1984, foreign citizens and stateless persons in Turkmenistan are subject to official responsibility on an equal footing with Turkmen citizens. Issues involving liability for administrative offences committed in the territory of Turkmenistan by foreign citizens who, in accordance with the legislation in force and international agreements concluded by Turkmenistan, enjoy immunity from prosecution before Turkmen administrative courts, are resolved through the diplomatic channel.

72. The Migration Act of 7 December 2005 is aimed at strengthening human rights enshrined in the Constitution with regard to freedom to choose one's place of residence, type of activity and occupation, freedom of movement and the prohibition of discrimination and encroachments upon individual rights and freedoms on the basis of origin, gender, race, ethnic background, language, faith, religious convictions or political views.

73. The Migration Act also regulates the realization of the rights, freedoms and obligations of foreign citizens and stateless persons by establishing provisions for:

- “(a) The stay, entry and exit of foreign citizens and stateless persons;
- (b) The formulation and delivery of permits of stay in the country or visas;
- (c) The formulation and delivery of permits of permanent residence at a place in the country (residence permits);
- (d) Gainful employment in the framework of labour migration;
- (e) Movement in the territory of Turkmenistan and choice of a place of residence;
- (f) Prosecution for violations of the Act, interruption of the stay and expulsion from the country.”

74. Under article 5 of the Turkmen Citizenship Act, Turkmen citizenship is equal for all citizens regardless of the grounds on which it was acquired.

75. Under the Turkmen Citizenship Act, Turkmen citizenship may be obtained as follows:

- “(a) By birth;
- (b) Through the procedure for acquisition of Turkmen citizenship;
- (c) On other grounds specified by the Turkmen Citizenship Act”.

76. Under article 18 of the Turkmen Citizenship Act, for an application for Turkmen citizenship to be granted, the applicant must:

- Pledge to observe and to respect the Constitution and laws of Turkmenistan
- Have an operational knowledge of the official language of Turkmenistan
- Have constantly resided in Turkmenistan for the last seven years
- Have a legal source of subsistence in Turkmenistan.

77. The Turkmen Citizenship Act provides for, inter alia, the right to acquire Turkmen citizenship under a simplified procedure (in article 19) and the right to recovery of Turkmen citizenship (in article 20).

78. Foreign citizens and stateless persons in Turkmenistan enjoy the right to legal protection in dealing with the administrative, judicial and other authorities.

79. The Council of Ministers and the Government, responsible ministries and departments, and civil and religious organizations, actively assisted by the offices representing international organizations accredited by Turkmenistan, carry out fundamental work for the dissemination of information on the principles and provisions of the International Covenant on Civil and Political Rights.

80. The Government has made cooperation with the international organizations, especially the United Nations, a foreign policy priority and laid down the action that the country must take in order to fulfil its international obligations. In 2007, the Government actively engaged in constructive dialogue with the Office of the United Nations High Commissioner for Human Rights (OHCHR). Ms. Louise Arbour, who visited the country

in May 2007. In March 2007, the Government invited the Special Rapporteur on freedom of religion and belief, who visited the country in September 2008. The United Nations Development Programme (UNDP)-OHCHR joint technical-assistance project entitled “Building reporting capacities in Turkmenistan” for the period 2007-2009 has been successfully concluded. In order to enhance the constructive dialogue on human rights protection, further promote the democratic processes and ensure the timely preparation of national reports, the Government has agreed to international cooperation in the framework of the joint OHCHR-European Commission-UNDP project entitled “Building Turkmenistan’s national human-rights promotion and protection capacities” for the period 2009-2011. The project was launched on 2 October 2009. With a view to the effective implementation of international legal standards, the actual application of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the timely presentation of national reports to the treaty bodies, an Inter-agency Commission for the fulfilment of Turkmenistan’s international human rights obligations has been set up as a standing advisory body responsible for coordinating the efforts of ministries, State committees, departments, local authorities, enterprises, institutions and organizations to fulfil the obligations in question. The United Nations Development Assistance Framework (UNDAF) for 2005-2009, signed by the Government and the United Nations organizations accredited by Turkmenistan, has been fully implemented. A new UNDAF for a period of six years and a broad range of fields, including the strategic areas of education, public health, environmental protection, and the legal and social sectors, was signed in August 2009 and is currently implemented by the Government and various social entities. Moreover, Turkmen ministries, departments, other State agencies, and social entities actively cooperate with such international bodies as the Organization for Security and Co-operation in Europe (OSCE), the United States Agency for International Development (USAID) and the German Development Cooperation Corporation (GERMAN DEVELOPMENT COOPERATION CORPORATION), and with foreign embassies in Turkmenistan, in the framework of joint projects.

### Article 3

81. Turkmenistan’s education system takes into consideration all of the rights of the child, ensures free secondary education compulsory for all children, including girls, and aims at the development of their personality in view of their talents, intellectual and physical abilities, aspirations, needs, inclinations and possibilities.

82. The right to education is enshrined as follows in article 35 of the Constitution:

“Every citizen has the right to education. General secondary education is mandatory and everyone is entitled to such education free of charge in State educational establishments.

The State ensures to all, according to their aptitudes, access to vocational, specialized secondary, and higher education.”

83. Article 3 of the Education Act stipulates the tasks of legislation in the education sector as follows:

- Guaranteeing and protecting the Turkmen citizens’ constitutional right to education
- Creating legal conditions ensuring the continuous functioning and development of the country’s education system;
- Delimiting, in the area of education, the powers of State organs and educational administration bodies at the various levels
- Determining the rights, responsibilities, authority and responsibility of legal entities and individuals in the area of education, and regulating their relations by law.

84. Under article 2 of the Education Act, education is based on the following fundamental principles:

- Equal rights for all to realize the potential of their abilities and aptitudes
- Access for all Turkmen citizens to all types of education services made available by the State
- Mandatory free general secondary education for every citizen in State schools.

85. Literacy level of the Turkmen population (per cent):

<i>Total population</i>			<i>Urban population</i>			<i>Rural population</i>		
<i>Both sexes</i>	<i>Women</i>	<i>Men</i>	<i>Both sexes</i>	<i>Women</i>	<i>Men</i>	<i>Both sexes</i>	<i>Women</i>	<i>Men</i>
Ages 9-49								
99.8	99.7	99.8	99.8	99.7	99.8	99.8	99.7	99.8
Ages 15 or older								
98.8	98.3	99.3	98.9	98.3	99.4	98.7	98.2	99.2

86. Breakdown of the population aged 15 or older by level of education

	<i>Total population</i>	<i>Persons with education</i>	<i>Higher education</i>	<i>Incomplete higher education</i>	<i>Including: Persons with</i>			<i>Elementary education</i>	<i>Persons without elementary education</i>
					<i>Specialized secondary education</i>	<i>General secondary education</i>	<i>Incomplete secondary education</i>		
<b>Total</b>	100	97.5	9.2	0.9	16.5	47.8	18.3	4.8	2.5
Urban	100	97.8	13.0	1.5	23.5	37.1	18.8	3.9	2.2
Rural	100	97.2	5.7	0.4	10.1	57.6	17.8	5.6	2.8
<b>Men</b>									
Total	100	98.5	11.2	1.1	17.8	46.6	17.9	3.9	1.5
Urban	100	98.8	14.1	1.6	23.5	37.5	18.9	3.2	1.2
Rural	100	98.3	8.6	0.6	12.5	55.1	17.0	4.5	1.7
<b>Women</b>									
Total	100	96.5	7.2	0.8	15.4	48.9	18.6	5.6	3.5
Urban	100	96.8	12.0	1.3	23.5	36.8	18.7	4.5	3.2
Rural	100	96.2	2.9	0.2	7.9	60.0	18.6	6.6	3.8

87. Nurseries and day-care centres

<i>Country-wide number of:</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Nurseries	4	4	4
Children in nurseries	219	199	217
Day-care centres	2	2	2
Children in day-care centres	459	510	517

## 88. Preschool establishments

<i>Country-wide</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Number of preschool establishments			
Total	819	813	817
Urban	664	661	665
Rural	155	152	152
Number of children in preschool establishments (thousand)			
Total	137.3	138.4	143.5
Including: girls	70.5	70.5	72.5
Urban	122.7	123.9	128.5
Including: Girls	62.7	62.9	64.8
Rural	14.6	14.5	15.0
Including: Girls	7.8	7.6	7.7
Number of children per 100 places in preschool establishments			
Total	94	95	96
Urban	95	96	97
Rural	89	88	85

## 89. Secondary schools at the beginning of the school year

<i>Country-wide</i>	<i>2006/2007</i>	<i>2007/2008</i>	<i>2008/2009</i>
Number of secondary schools			
Total	1 708	1 711	1 718
Urban	482	486	493
Rural	1 226	1 225	1 225
Number of students (thousand)			
Total	957.9	1 040.0	1 006.3
Including: Girls	470.6	511.6	495.2
Urban	380.4	410.9	399.4
Including: Girls	183.6	198.6	192.8
Rural	577.5	629.1	606.9
Including: Girls	287.0	313.0	302.4
Number of orphans and children deprived of parental care in schools and boarding schools			
Total	1 784	1 891	2 165
Urban	1 016	1 071	1 277
Rural	768	820	888

## 90. Secondary vocational schools at the beginning of the school year

<i>Country-wide</i>	<i>2006/2007</i>	<i>2007/2008</i>	<i>2008/2009</i>
Number of secondary vocational schools			
Total	16	18	18
Number of students (thousand)			
Total	3 847	3 855	4 024
Including: Girls	2 466	2 600	2 757

## 91. Higher education establishments at the beginning of the academic year

<i>Country-wide</i>	<i>2006/2007</i>	<i>2007/2008</i>	<i>2008/2009</i>
Number of higher education establishments			
Total	16	17	18
Number of students (thousand)			
Total	16 461	17 037	20 689
Including: Women	6 247	6 188	7 416

92. As a State party to the International Covenant on Civil and Political Rights, Turkmenistan ensures gender equality in the enjoyment of the rights provided for in the Covenant.

93. Under article 16 of the Turkmen Citizenship Act, marriage to a citizen of another State or a stateless person or dissolution of such marriage does not entail any change to the spouses' citizenship.

94. The Marriage and Family Code guarantees equal rights for the spouses. The law allows no direct or indirect restriction, upon entry into marriage and family relations, on rights on the grounds of origin, social or property status, racial or ethnic affiliation, gender, education, language, attitude to religion, type of occupation, place of residence or other factors.

95. Under article 27 of the Constitution, men and women, upon reaching the age of marriage, have the right to enter into marriage and found a family by mutual consent. Should a spouse be a citizen of another State, the conclusion or dissolution of the marriage does not entail any change to the spouses' citizenship.

96. The citizenship of children is regulated by the Turkmen Citizenship Act regardless of the registration of family relations.

97. Under article 24 of Turkmen Citizenship Act, in the event of a change in the citizenship of both parents, as a result of which both become Turkmen citizens or relinquish Turkmen citizenship, the citizenship of the children changes accordingly, if they are under 14. If only one of a child's parents is known, a change in the parent's citizenship entails a corresponding change in the citizenship of the child up to age 14. If both parents - or one parent, should the other be unknown - so desire, in the event that they relinquish their Turkmen citizenship, a child up to the age of 16 may maintain his/her Turkmen citizenship. The citizenship of children whose parents have forfeited their parental rights does not change if the parents' citizenship changes.

98. A change in the citizenship of one spouse does not entail a change in the citizenship of the other.

99. The Turkmen Citizenship Act regulates the citizenship of children as follows:
- (a) Under article 12, a child whose parents are both Turkmen citizens at the time of birth;
  - (b) Under article 13, a child whose parents are both Turkmen citizens at the time of birth:
    - If the child was born in Turkmenistan
    - If the child was born abroad but both or one of the parents at that time had a permanent place of residence in Turkmenistan.
100. Should the parents have different citizenships, one of which at the moment of birth was Turkmen, then, if at that time both parents had a permanent place of residence abroad, the citizenship of the child is determined by written agreement between the parents. A child under 14, one of whose parents at the time of birth was is a Turkmen citizen but the other was a stateless person or is unknown, becomes a Turkmen citizen regardless of the place of birth. Upon establishment of the paternity of a child under 14 whose mother is a stateless person and the father is recognized as a Turkmen citizen, the child becomes a Turkmen citizen regardless of the place of birth. If such a child permanently resides abroad, his/her citizenship is determined on the basis of a written statement by the parents. Under article 30 of the Act, a change in the citizenship of children aged 14-18 subsequent to a change in the citizenship of their parents or to the children's adoption is possible only with the child's written consent.
101. A child born in Turkmenistan to a stateless person with a permanent place of residence in the country is a Turkmen citizen.
102. A child of unknown parents who lives in Turkmenistan is considered to have been born in country and is a Turkmen citizen. If at least one of the parents or a stepparent or guardian is identified, the child's citizenship may change in line with the Turkmen Citizenship Act.
103. Under article 20 of the Constitution, men and women in Turkmenistan have equal civil rights. Any gender-based violation of equal rights constitutes grounds for criminal charges in accordance with article 145 of the Criminal Code.
104. The Marriage and Family Code constitutes the basic legislation governing family relations and the protection of the rights and interests of women and children. It regulates personal and property relations within the family, namely between spouses, between parents and children and between other family members. It also lays down the procedure and conditions for entry into marriage, divorce, marital status registration, adoption, guardianship and foster care.
105. Under article 3 of the Marriage and Family Code, women and men have equal personal and property rights within the family.
106. Under article 6 of the Marriage and Family Code, only marriages concluded in population registry offices are recognized.
107. Religious marriage rites have no legal force.
108. The future spouses mutual consent and their attainment of the minimum legal age - 16 for both sexes, under article 16 of the Marriage and Family Code - are required for the conclusion of a marriage.
109. In the event that at least one of the spouses has not attained the minimum age for marriage or the marriage has been entered into as a result of coercion or fraud or without the intention to form a family (as a fictitious marriage), the marriage may be declared null and void through a court decision.



110. A marriage may be terminated through divorce at any time during the spouses' life upon application by either spouse.

111. Under article 35 of the Marriage and Family Code, the court takes steps for the spouses' reconciliation, including a six-month period allowed for that purpose.

112. A marriage is dissolved, if the court establishes that it has become impossible for the spouses to live together any longer and for the family to be maintained.

113. In deciding the dissolution of a marriage, the court takes measures, when necessary, for the protection of the interests of minors or of a disabled spouse.

114. The National Safe Motherhood Programme, 2007-2011, adopted in 2006, is designed to contribute to the attainment of Turkmenistan's development goals, set forth in the social and economic development strategy through 2010, and the economic, political and cultural development strategy through 2020. The programme was prepared taking into consideration the recommendations of international organizations and encompasses a new perinatal health strategy and related principles, including provisions on the organization of prenatal, childbirth, neonatal and postnatal care based on World Health Organization (WHO) technology effective in improving health during pregnancy, labour, puerperium and early infancy. The programme helps to enhance the quality of perinatal care and to reduce maternal and infant mortality.

115. The Ministry of Health and the Medical Industry data for the last five years show a steadily increasing birth rate.

	2004	2005	2006	2007	2008
Number of live births	89 427	90 566	95 995	103 684	114 889
Birth rate	18.0	18.2	19.1	20.5	22.4

116. The number of pregnant women is on the increase. All pregnant women receive antenatal care at medical treatment and prevention centres, where modern observation and attendance methods are successfully introduced.

	2004	2005	2006	2007	2008
Number of pregnant women	130 308	130 974	135 052	148 910	165 101

117. Basic health development indicators:

	2004	2005	2006	2007	2008
Number of:					
Physicians in general	14 184	13 288	12 837	12 975	12 707
Family physicians	3 137	3 226	3 037	3 004	2 927
Paramedical personnel	38 101	23 024	22 609	22 488	22 246
Family nurses	6 237	5 280	5 237	5 152	5 241
Hospitals	114	122	121	126	141
Hospital beds	24 416	22 652	22 639	23 119	22 977
Nursing homes	32	30	30	33	33

## 118. Life expectancy at birth:

	<i>Total population</i>			<i>Urban population</i>			<i>Rural population</i>		
	<i>Total</i>	<i>Women</i>	<i>Men</i>	<i>Total</i>	<i>Women</i>	<i>Men</i>	<i>Total</i>	<i>Women</i>	<i>Men</i>
2000	68.3	71.8	69.4	68.3	73.2	63.6	68.3	70.4	66.1
2007	69.6	73.1	66.7	69.5	73.9	65.1	70.1	72.2	67.9

119. In 2000, the Ministry of Health and the Medical Industry in cooperation with international organizations developed a “National Reproductive Health Strategy, 2000-2010”.

120. The Government’s population and social policy tends to raise the birth rate by helping women to reconcile motherhood and employment and ensuring their social protection.

## 121. Social security

<i>Country-wide</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Number of retired workers (thousand)			
Total	173.2	246.3	253.7
Urban	93.2	115.0	119.3
Rural	80.0	131.3	134.4
Including: Women	100.2	156.3	163.2
Number of welfare beneficiaries (thousand)			
Total	122.0	247.0	275.7
Urban	60.8	121.1	113.0
Rural	61.2	125.9	162.7
Including: Women	70.7	171.2	221.7
Including: Recipients of childcare allowance for children older than 18 months (thousand)			
Total	8*	110.0	133.3

\* For children older than 3 years (thousand).

122. The number of women using modern methods of contraception for recovery after pregnancy and for the observance of appropriate birth spacing is on the increase.

123. The Ministry of Health and the Medical Industry has drawn up and adopted guidelines for the protection of women’s health and the conduct of artificial terminations of pregnancy, whether voluntary or on the grounds of medical and non-medical factors. Voluntary abortion may be performed up to the twelfth week of pregnancy. All types of abortion are performed at medical treatment and prevention centres free of charge or on fee-paying basis. Preventive treatment through the creation of reproductive health units has allowed reducing the number of abortions.

124. Turkmenistan is party to the following international instruments governing women rights:

- Convention on the Elimination of All Forms of Discrimination against Women of 1979

- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women of 1999
- International Labour Organization (ILO) Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value of 1951
- Convention on the Political Rights of Women of 1952.

125. On 14 December 2007, the Parliament adopted the Women's Equality State Guarantees Act, which provides for the implementation of the basic principles of the Government's human rights policy and for ensuring women's comprehensive development; and lays down State guarantees for the realization of women's human rights and freedoms in the political, economic, social, cultural and other areas on an equal footing with men.

According to the above Act:

“1. Regardless of their ethnic background, race, origin, property, official position, marital status, place of residence, language, attitude to religion, political views or party affiliation, women in Turkmenistan have equal rights and freedoms with men in the political, social, economic, cultural and other areas of activity.

2. Women who are citizens of another State or stateless, and reside permanently in Turkmenistan, are guaranteed the same rights and freedoms established by law for Turkmen women, unless the law or international agreements to which Turkmenistan is a party otherwise provide.”

126. The goals and functions of the Act consist in guaranteeing that women should be equal with men in:

- Rights and freedoms in the political, economic, social, employment, cultural and other sectors
- Relations in all spheres of social life
- Family relations.

127. Government policy for women aims at:

- Legislatively guaranteeing equal rights for women, prohibition of gender-based discrimination and legal redress for women whose rights are violated
- Drawing up and implementing targeted Government projects for promoting equal rights for women
- Supporting and protecting mothers and young children
- Promoting women's balanced physical, intellectual, spiritual, cultural and moral development
- Protecting society from messages inciting to gender-based discrimination and contributing to the spread of violence, cruelty, pornography, drug addiction or alcoholism
- Supporting and cooperating with public associations, other public bodies and international organizations promoting the interests of women
- Ensuring compliance with the universally recognized principles and standards of international law and with Turkmenistan's international obligations in the areas of the protection of women's rights and freedoms and equal rights.

128. Discrimination, whether explicit or implicit, against women is prohibited in any sphere of activity. Discrimination is understood as any difference, exception or preference, which limits or denies members of either sex equal realization of their human and civil

rights and freedoms in the political, economic, social, cultural or any other area. Under the law, charges may be brought against persons allowing explicit or implicit discrimination against women.

129. The State guarantees equal rights for women in the political, social economic, cultural and other areas through legal, economic, organizational, social, informational and other measures in accordance with the Constitution, the Women's Equality State Guarantees Act, other national normative legal instruments and the universally recognized principles and standards of international law.

130. The State guarantees women's equality with men regarding the right to life and the freedom to realize it; protects women's individuality, including their name, surname, ethnic background and citizenship; and defends women's right to privacy and protection from damage to their honour, dignity or reputation.

131. On an equal footing with men, women have the right to freely determine their attitude to religion, join any religion or none at all, and express their opinions and views.

132. The State guarantees women's equality with men regarding the right to marry and form a family upon attaining the legal age for marriage.

133. The State guarantees gender equality regarding participation in Government administration.

134. The State guarantees women's equal participation in the legislative, executive and judicial branches of Government, through legal, organizational and other measures in accordance with domestic legislation.

135. The State guarantees women's equality with men regarding access to civil service on the basis of aptitude and professional qualifications. Women and men have equal rights, duties, responsibility and opportunities regarding entry into civil service and professional activity in public bodies.

136. The State guarantees women's equality with men where women voluntarily fulfil the constitutional duty to defend the fatherland by enrolling in the Armed Forces according to the procedure specified by law.

137. The State guarantees women's equality with men regarding election-related rights. Women have the same right as men to elect and be elected to elective office in accordance with the law. Any restrictions on such rights for women on the basis of ethnic background, origin, property, official position, place of residence, language, attitude to religion, political views or party affiliation are prohibited.

138. The State guarantees women's equality with men regarding the realization of property rights. It ensures equal conditions of access to all types of property, including land tenure, obtainment or acquisition of decent housing and construction of an individual residence.

139. The State guarantees the realization of women's right to inherit property in accordance with the law.

140. Pursuant to the constitutional principle of equal rights, freedoms and opportunities for citizens in relation to employment, gender equality in relation to work is guaranteed, particularly with regard to freedom in the choice of occupation, type of employment and place of work. Any gender-based limitations in relation to work are prohibited. Under article 243 of the Labour Code of 18 April 2009, the State guarantees and ensures gender equality in respect of:

- The protection of work-related rights and legitimate interests
- Wage work
- Entrepreneurial activity

- Access to vacant jobs on the basis of aptitude and professional qualifications
- Remuneration - and work-related privileges, conditions and evaluation - for work of equal value
- Healthy and safe working conditions, particularly in the case of pregnant women and mothers
- Advancement, capacity-building and further training
- Reconciliation of gainful employment and parental duties.

The State creates for women conditions equal to those applicable to men regarding access to the managerial duties in enterprises. The principle of work-related equality also applies to household duties, which may be carried out by women and men on an equal footing and must not serve to justify discrimination against women.

141. The State guarantees women's equality to men regarding conditions necessary for:

- Access to education in accordance with the Constitution and the Education Act
- Teaching and scientific activities
- Access to information resources.

142. The Government organizes awareness-raising activities among the population in order to promote compliance with the principles of gender equality.

143. The State guarantees gender equality through:

- Free medical assistance to the extent and in the forms specified by law
- Medical insurance in accordance with the law
- Mother and child protection and support; and sustainable enhancement of the quality level of reproductive health care
- Disease prevention and health protection and promotion
- Health-resort therapy.

144. Under articles 20 and 37 of the Constitution and article 3 of the Social Code, the State guarantees women's equality with men regarding access to social security and social benefits, including parenthood and child benefits, old age protection, coverage for disease or disability, survivor's benefits, and other benefits provided for by law.

145. The State guarantees women's equality with men regarding protection against sexual abuse.

146. Under article 4 of the Act against Human Trafficking of 17 December 2007, the State guarantees women's equality with men regarding protection from abduction and trafficking of any form and to any end.

147. Women may not suffer any limitation or loss of their lawful rights or be condemned or punished otherwise than by due process of law.

148. The State guarantees and protects the rights of women who are arrested, detained, or sentenced to imprisonment, according to the procedure established by law.

149. Government statistics reports must include indicators showing the situation of women in the country. The Government Statistics Board directs the collection of information on gender equality issues in all areas of State and public activity according to the procedure laid down by the Council of Ministers. Government agencies, local

executive authorities, local government bodies, and the heads of enterprises, organizations and establishments, regardless of type of ownership, must provide the Government Statistics Board with statistical data on issues related to the situation of women in the country, in accordance with the law.

150. Turkmenistan participates in international cooperation on the defence of women's rights and freedoms, protection of the mother and the child, guaranteed equal opportunities and fair rewards, and fulfilment of international obligations regarding those issues.

151. Infringements of the Women's Equality State Guarantees Act constitute grounds for bringing legal charges.

152. Under articles 241-249 of the Labour Code, women's rights are guaranteed and women enjoy specific advantages.

153. Women's employment under harmful or extremely difficult working conditions is subject to restrictions, except in the areas of non-physical work and health-related and community services. The list of types of work involving harmful or extremely difficult working conditions and subject to restrictions regarding the employment of women is drawn up by the Council of Ministers. Women may not manually lift or transport weights exceeding standard limits established by the Government. They are barred from night work, overtime and work on days of rest, public holidays and memorial days. Pregnant women may not be sent on work-related trips. Pregnant women engaged in agricultural labour are entitled to a six-hour working day, while preserving their normal wage. Mothers with children up to 3 years of age (or with disabled children up to 16 years of age) are barred from night work, overtime and work on days of rest, public holidays and memorial days; and may not be sent on work-related trips without their written consent. Based on a medical assessment, pregnant women are expected to meet production or service standards or are transferred to lighter work protected from adverse production factors, maintaining their earlier wage rates. Until a decision is made regarding such reassignment, a pregnant woman stays on paid leave, receiving from the enterprise the normal wage for all working days missed. Mothers with a child up to 18 months of age who are unable to carry out their previous work are transferred to lighter work, while preserving their normal earnings on the earlier job, until the child becomes 18 months old; and, in addition to the usual pause and lunch break, are entitled to an additional break of at least 30 minutes for feeding the child at maximum intervals of three hours. A mother with two or more children under 18 months is entitled to such feeding breaks of at least 60 minutes. Such feeding breaks are considered time worked and paid at the normal wage rate. The duration of the breaks and the procedure for scheduling them are determined by the employer in cooperation with the trade union or other body representing the workers, taking into consideration the mother's preference. It is illegal to refuse to hire women or to employ them at reduced wage rates on the grounds of pregnancy or because they have children up to 3 years of age (or disabled children up to 16 years of age). The employment contract of a woman who is pregnant or has children up to 3 years of age (or disabled children up to 16 years of age) may not be terminated on the employer's initiative, except in the event of liquidation of the enterprise or, if the employer is an individual, termination of his/her activity; commission of a major violation of work discipline; theft of objects belonging to the proprietor; and expiration of an employment agreement for replacing a worker absent during a specific period.

154. Under article 145 of the Criminal Code, any direct or indirect gender-based violation or restriction of human or civil rights and freedoms is punishable.

155. Under article 5 of the Civil Procedure Code, justice in civil matters is administered only by a court of law on the basis of the principle of the equality of all citizens before the law and in court regardless of their origin, social status, property, race, ethnic origin, gender, education, language, attitude to religion, type of occupation, place of residence or other factors.

156. Article 27 of the Constitution and article 3 of the Marriage and Family Code stipulate that the spouses have equal human rights in family relations. Article 4 of the Marriage and Family Code provides for equal rights of citizens in family relations, precluding any direct or indirect limitation of rights or the establishment of any direct or indirect advantages, upon entry into marriage and in family relations, on the basis of origin, social status, property, race, ethnic origin, gender, education, language, attitude to religion, type of occupation, place of residence or other factors.

157. Under articles 20-21 of the Marriage and Family Code, issues related to the education of children and other family matters are settled by the spouses consensually. Either spouse is free to choose an occupation, profession or place of residence. Property acquired by the spouses during a marriage is joint property. Spouses have equal rights of ownership, use and management of the property. Spouses have equal property rights even in cases in which one spouse is occupied in household activities and child care, having no independent income.

158. Under article 65 of the Marriage and Family Code, the father and mother have equal rights and responsibilities with regard to their children, including in the case of divorce. All issues related to the education of children are settled by the parents consensually.

159. Under article 24 of the Turkmen Citizenship Act, the citizenship of children does not change with a change in the citizenship of parents deprived of parental rights.

160. Women account for 50.2 per cent of the country's population and for 17 per cent of the members of the Parliament. The speaker and the chairpersons of two of the five committees of the Parliament, the Deputy Prime Minister, and various Ministers, diplomatic staff members, deputy province governors, deputy heads of urban and district administrations, media editors-in-chief, heads of higher education institutions and scientific establishments, and key members of the central and local electoral commissions are women. Women participate in the representative and executive power bodies at all levels, accounting for 13.5 per cent of elected local Government officials and for 15.5 per cent of the members of province representative bodies.

161. Under the Act against Human Trafficking, the State guarantees individual freedom and the protection of society against trafficking in human beings, including trafficking in women.

162. In the framework of the Turkmen Government and International Organization for Migration (IOM) project on assistance in solving practical issues related to migration and the protection of the dignity and welfare of migrants of 27 December 2007, international seminars have been held for the exchange of experience on combating human trafficking at the international and national levels. On 25 August 2009, the Ministry of Foreign Affairs, the Turkmen National Institute for Democracy and Human Rights (TNIDIPC) attached to the Office of the President of Turkmenistan and the OSCE Centre in Ashkhabad organized a seminar on preventing and combating human trafficking.

#### **Article 4**

163. Under article 47 of the Constitution, the exercise of civil rights and freedoms enshrined in the Constitution may be temporarily suspended during a state of emergency or under martial law. Such a state is declared by the President of Turkmenistan in order to ensure the population's security and the smooth operation of economic entities in the face of adverse occurrences.

164. Civil defence personnel, Armed Forces units and forces and facilities of internal affairs bodies may be deployed in accordance with their duties under the law in order to deal with emergency situations.

165. On 18 November 1996, the Ministry of Health and the Medical Industry established the Extreme Medicine Centre, governed by the Constitution; domestic law, including legislation adopted by the Parliament, Presidential Decree No. 2020 of 19 December 1994 “on issues related to the State Commission on Emergency Situations” concerning, inter alia, the Ministry of Health, Council of Ministers decisions, and other normative instruments; instructions by the Chairperson of the State Commission on Emergency Situations; and orders issued by the Minister of Health and the Medical Industry. Emergency rule is provided for, in accordance with the Constitution, by the Emergency Prevention and Response Act of 15 September 1998 and constitutes a special legal framework for the activity of State organs throughout the national territory or in particular regions of the country. The objectives of emergency rule consist in eliminating the grounds for its proclamation, protecting civil rights and freedoms and defending the country’s constitutional system. Under the above presidential decree, operational information regarding emergencies must be duly transmitted to the State Commission on Emergency Situations within one hour orally and confirmed in writing within three hours. In cases of emergency, medical assistance must be provided to any injured residents, they must be evacuated to general hospitals in a timely manner, and public-health, hygiene and antiepidemic measures must be taken in order to ensure medical protection for the population and personnel.

166. Under the State of Emergency Act of 23 August 1990, emergency rule is a temporary measure proclaimed in accordance with the Constitution and the law in the interest of ensuring the security of the citizens and saving national property from destruction by natural disasters; major emergencies, catastrophes or outbreaks of epidemic or epizootic diseases; or mass riots. The proclamation of a state of emergency specifies the reasons for the measure and its duration and geographical scope. The decision to proclaim, prolong or terminate emergency rule becomes effective upon adoption, unless otherwise specifically stipulated, and is promulgated immediately.

167. Under article 7 of the State of Emergency Act and depending on actual conditions, the political and administrative authorities may:

- Strengthen the protection of law and order; entities ensuring vital activities of the population and the national economy; storage facilities for weapons, explosives, inflammable, radioactive, toxic or other drastic substances, narcotic drugs or alcoholic beverages; energy resources; means of transport and liaison; and bank establishments, stores, base facilities or warehouses
- Temporarily displace citizens from areas exposed to danger, with the obligation to provide them with permanent or provisional living quarters
- Establish special procedures for the entry and exit of citizens
- Prohibit individuals in the area concerned from leaving their homes during a given period; and transport, at their expense, disturbers of law and order who are not residents of the area to their permanent place of residence or outside the area subject to emergency law
- Temporarily retrieve firearms, silent weapons or ammunition from the premises of citizens; and military training equipment, explosives, radioactive substances and materials, and drastic chemical or toxic substances from enterprises, establishments and organizations
- Prohibit strikes; meetings; rallies; parades; demonstrations; and entertainment, sport and other mass events; and halt activities involving large gatherings
- Introduce changes in the plans of enterprises and organizations for production and product deliveries; establish special operation rules for such entities; and make other arrangements regarding their economic activity



- Designate or dismiss managers of enterprises, establishments and organizations; and prohibit the voluntary resignation of workers and employees unless there are cogent reasons to the contrary
- Use the resources of enterprises, establishments and organizations for preventing or overcoming the effects of the emergency
- Call upon able-bodied citizens to work in enterprises, establishments and organizations or on overcoming the effects of the emergency, ensuring safe working conditions
- Restrict or prohibit trade in weapons, drastic chemical or toxic substances, alcoholic beverages and alcohol-containing substances
- Impose quarantine and take other necessary public-health and antiepidemic measures
- Restrict or produce the use of equipment for printing, radio and television broadcasting and audio- or video recording; remove sound-amplification equipment; and control the media
- Introduce special rules for communications
- Inspect and restrict the movement of vehicles
- Impose a curfew
- Halt the activity of political parties, public organizations, movements or self-regulated associations of citizens, which impede redressing the situation
- Forbid the formation and activity of armed citizen groups not provided for by law
- Control the citizens' identification documents and, if necessary, carry out body searches and inspect personal belongings and vehicles.

168. During a state of emergency, the management enterprises, establishments and organizations may, when necessary, transfer workers and employees without their consent to other duties, not specified in the employment contract.

169. After curfew, citizens may not be on the street or in other public places without a special permit and identification documents or outside their home without such documents.

170. Curfew violators and persons not carrying the required documents are detained until, respectively, the curfew is lifted or their identity is established, and may undergo a body search and inspection of their personal effects.

171. Citizens having suffered damage during an emergency or while working to prevent or overcome it are provided by the appropriate Government authorities, enterprises, establishments or organizations with living quarters, compensation for any tangible damage, reemployment or other necessary assistance.

172. Emergency law was not imposed while Turkmenistan was achieving independence. That attests to the country's social stability, which obviated the need for such a measure. However, there is an urgent need to reform current legislation in that area because significant developments have taken place since its adoption. In particular, Turkmenistan's status has changed from that of a former USSR republic to that of an independent neutral State. References, contained in the law currently in force, to defunct Soviet-era organs create certain law-enforcement problems. Accordingly, a parliamentary reform of state-of-emergency law has been planned.

173. Under article 53 of the Constitution, the President of Turkmenistan declares a state of emergency throughout or in parts of Turkmenistan in order to ensure security for the citizens.

174. Under article 13 of the Constitution, Turkmenistan has Armed Forces to preserve its sovereignty.

175. Under article 5 of the Constitutional Act on the permanent neutrality of Turkmenistan, the country undertakes the obligation not to start wars or conflicts, not to participate in such activities (except in exercise of its right to self-defence), and not to take political, diplomatic or other steps, which may lead to war or military conflict. In the event of armed aggression against it, Turkmenistan may request assistance from other States or the United Nations.

176. Under article 9 (28) of the Police Act of 7 July 2001, police obligations include helping to enforce and observe emergency law or martial law, when a state of emergency is proclaimed throughout or in parts of the country; and developing and taking measures for continuing to carry out police tasks under wartime conditions or in peacetime emergencies. Under article 3 of the Internal Troops Act of 7 July 2001 and article 14 (9) of the National Security Agencies Act, the duties of, respectively, internal troops and national security agencies include participation in implementing a state of emergency.

177. The Mobilization Preparation and Implementation Act of 10 December 1998 provides the legal basis for preparing and implementing mobilization as an important part of the organization of national defence in view of the country's neutrality.

178. The Civil Defence Service, whose tasks and organization are governed by the Civil Defence Act of 29 November 2003, is aimed at ensuring the protection of the citizens and national economy entities from the dangers occasioned by military action and by major emergencies, disasters or environmental catastrophes.

## **Article 5**

179. Under article 18 of the Constitution, no one may be deprived of or limited in his/her rights and freedoms unless the Constitution or the law otherwise provide. Such deprivation or limitation and any sentences or penalties may only proceed in strict compliance with the law. No one may be subjected to torture or cruel, inhuman or degrading treatment or punishment or, without his/her consent, to any medical treatment (through drugs or by a physician) or any experiments. Under article 23 of the Constitution, a citizen may be arrested only for reasons clearly set out in the law and by a court decision or with the approval of a public procurator. In urgent cases that are clearly stipulated in the law, authorized Government agencies may detain citizens temporarily.

180. Under article 25 of the Constitution, every citizen has a right to protection against arbitrary interference in his/her private life, against infringements of the confidentiality of his correspondence and telephone or other communications, and against attacks upon his/her honour or reputation.

181. Under article 27 of the Constitution, upon reaching the legal age for marriage, women and men may mutually consent to join in wedlock and form a family. The spouses enjoy equal rights in family relations. Under article 28 of the Constitution, Turkmen citizens have the right to freedom of opinion and expression of their views. Under article 33 of the Constitution, citizens have the right to work and choose an occupation, type of employment and place of work. Under article 34 of the Constitution, citizens have a right to recreation. Under article 37 of the Constitution, citizens have a right to social security coverage for old age, sickness, disability, inability to work, loss of a breadwinner and unemployment.

182. Under article 44 of the Constitution and article 1040 of the Civil Code, citizens may claim through a court of law damages for material and moral injury caused by illegal activities of Government bodies, other organizations or their employees, or private individuals.

183. Under article 45 of the Constitution, no one may be obliged to testify or provide explanations against himself/herself or his/her close relatives. Evidence obtained through psychological pressure or violence and other unlawful methods lacks legal force.
184. Under article 46 of the Constitution, a law which worsens the position of a citizen may not be applied retroactively. No one may be held accountable for actions not characterized as offences at the time of their commission.
185. The human rights and freedoms enshrined in the Constitution and other laws may not be used to deny or downgrade other rights and freedoms.
186. Chapter 19 of the Criminal Code contains specific provisions on offences against human and civil rights and freedoms enshrined in the Constitution.
187. The development of Turkmen legislation is characterized by a trend towards implementation of international legal standards. Under article 2 of the Regulatory Legal Instruments Act of 7 December 2005, regulatory activity is based on the principles of constitutionality, legality, precedence of the universally recognized standards of international law, protection of rights and freedoms and the legitimate interests of citizens, social justice, transparency and respect for public opinion. The precedence of generally recognized rules of international law is enshrined in article 6 of the Constitution and in the law.
188. Under article 4 of the Internal Affairs Bodies Act, the units in question are aimed at ensuring individual security and the protection of the life, health, honour, dignity, rights and freedoms of the citizens against illegal violations of those rights.

## Article 6

189. The society and State of Turkmenistan place the highest value on the person. The full guarantee of human rights and freedoms is at the core of Government policy.
190. Accordingly, ongoing democratization of the State and public life is guided by the social prioritization of human life, and the ideals of decency, fairness and humanism. As part of the realization of the natural and inalienable right to life, an Act of 6 January 1999 declared a moratorium on the enforcement of death sentences and capital punishment was abolished by a Presidential Decree of 28 December 1999.
191. On 28 December 1999, Turkmenistan acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the Constitution was amended accordingly. Under article 22 of the Constitution, "every person enjoys the right to life and the freedom to lead his/her life. No one may be deprived of the right to life. The right of every person to a free life is protected by the State on the basis of the law. Capital punishment has been abolished in Turkmenistan".
192. Under article 6 of the Constitution, Turkmenistan, as a full-fledged member of the international community, pursues a foreign policy based on the principles of permanent neutrality, non-interference in the internal affairs of other countries, renunciation on the use of force and on participation in military blocs and unions, and promotion of peaceful, friendly and mutually advantageous relations with the countries of the region and States throughout the world.
193. The military doctrine of an independent and permanently neutral Turkmenistan comprises a set of principles, purposes and tasks officially adopted by the State and forming, from a military perspective, the political, economic and strategic basis for the country's security, territorial integrity and peaceful foreign policy. The doctrine sets forth the operational role of the defence and law-enforcement units as guardians of the peaceful life, work and rights and freedoms of every Turkmen citizen. At the 16 February 2009

meeting of the State Security Council, President Gurbanguly Berdimuhamedow stressed that, as a neutral State, Turkmenistan only pursued the goal of defending the country's inviolable boundaries and peaceful air space and, to that end, planned to implement steadfastly a comprehensive programme for strengthening national security and maintaining at a high level the defence capability of the Armed Forces, protector of the Turkmen people's pacific and untroubled life. The doctrine develops the elements of the national security concept and of the Declaration "on Turkmenistan's foreign policy in the twenty-first century, based on permanent neutrality and the principles of peacefulness, friendly relations and democracy". Those elements reflect the current and projected military and political situation, the objective requirements for the country's military security, an analysis of the nature and components of modern warfare and armed conflicts, and domestic and foreign military know-how and organizational experience. The doctrine is defensive in nature inasmuch as it embodies a working combination of a binding commitment to global security and peace, and the resolve to protect the national interests and ensure the country's military security. The legal basis for the doctrine consists of the Constitution, the Constitutional Act on the permanent neutrality of Turkmenistan, other Acts, international legal and regulatory instruments and the international treaties concluded by the Government in the area of military security.

194. The country's military security is a Government priority and involves the key objectives of prevention, identification and neutralization of military threats to the country. The Government considers military security in the context of building a democratic, rule-of-law and secular State, of social and economic reforms, and of foreign relations based on the principles of equitable and mutually beneficial partnership, cooperation and friendly relations. Turkmenistan engages in international military and related technical cooperation on the basis of its national interests and the tasks linked to military security. Such cooperation is the prerogative of the Government and is carried out in accordance with national law and Turkmenistan's international agreements on the basis of equal rights, mutual advantage and friendly relations in the interests of international stability and national security. Section VIII of the Criminal Code specifically stipulates accountability for:

- Military propaganda (in article 167)
- Genocide (in article 168 )
- Mercenary activities (in article 169)
- Aggression against internationally protected persons (in article 170)

195. Confirming its fundamental commitment to the objectives of avoiding war and armed conflicts, promoting international security and universal peace, and implementing the ideals of humanism, democracy and social progress, Turkmenistan guarantees the fulfilment of the provisions of its military doctrine in the framework of its status as a neutral country and its international obligations. Turkmenistan is committed to complying strictly with the Charter of the United Nations and the universally recognized principles and standards of international law, which aim at preserving peace and stability.

196. At the sixty-fourth session of the General Assembly of the United Nations, the President of Turkmenistan stated that the main goal of the country's foreign policy remained unchanged: comprehensive assistance to the world community in its efforts to support and strengthen a global security system, to identify and neutralize threats of conflict and to provide conditions for the stable and sustainable development of States and peoples and for broad and constructive international cooperation. The President proposed a number of initiatives for the promotion of peace, and in particular the creation of a nuclear-weapon-free zone in Central Asia, to be established under the auspices of the United Nations at an international conference, during the first half of the following year, on the subject of disarmament in the Central Asia region and the Caspian Basin. The first consultative

meeting on the preparation and conduct in the first half of 2010 of the International Conference on disarmament problems in the Central Asia and Caspian Basin region took place at the Ministry of Foreign Affairs, in Ashkhabad, on 2 December 2009 with the participation of diplomats and experts of the foreign policy departments of Azerbaijan, the Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan.

197. Turkmenistan is party to the following international treaties on the non-proliferation of weapons of mass destruction:

- Treaty on the Non-Proliferation of Nuclear Weapons (NPT) of 1 July 1968
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC) of 13 January 1993
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (CBW) of 10 April 1972
- Comprehensive Nuclear-Test-Ban Treaty (CTBT) of 24 September 1996
- Treaty on a Nuclear-Weapon-Free Zone in Central Asia of 8 September 2006.

198. Under article 36 of the Constitution, every person has a right to a healthy environment. The State monitors the economic utilization of natural resources with a view to protecting and improving living conditions and preserving and restoring the environment.

199. The Counter-Terrorism Act of 15 March 2003 determines the legal and organizational basis for combating terrorism in Turkmenistan; lays down operation and cooperation procedures for public bodies, organizations regardless of form of ownership, and public associations in the fight against terrorism; and specifies rights, responsibilities and guarantees applicable to citizens in connection with counter-terrorism.

200. Turkmenistan is party to the following international treaties on combating terrorism and its manifestations:

- International Convention for the Suppression of Acts of Nuclear Terrorism
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of 24 February 1988
- International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 31 January 1990
- International Convention for the Suppression of Terrorist Bombings of 15 December 1997
- Convention on Offences and Certain Other Acts Committed on Board Aircraft of 14 September 1963
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971
- Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 10 March 1988
- International Convention against the Taking of Hostages of 17 December 1979

- International Convention for the Suppression of the Financing of Terrorism of 9 December 1999
- United Nations Convention against Transnational Organized Crime of 15 November 2000
- Convention on the Physical Protection of Nuclear Material of 3 March 1980.

201. The Combating Money-laundering and the Financing of Terrorism Act is aimed at protecting the rights and legitimate interests of the citizens, society and the State and the integrity of the financial system of Turkmenistan against criminal offences by creating a legal machinery for the combat in question. Compensation for prejudice resulting from a terrorist act is paid from the State budget and recovered from the offender according to the relevant legal procedure. Support for terrorist act victims includes legal assistance, psychological attention and medical treatment according to a procedure established by the Council of Ministers. Participants in terrorist activities are accountable under the Criminal Code pursuant to articles 18, 19 and 23 of the Counter-Terrorism Act.

202. The Police Act and the Internal Troops Act specify the purposes for which the police and the internal troops may resort to physical violence, special methods and firearms, and the limits to which such use is subject.

203. The members of the police and of the internal troops have a right to carry and employ authorized firearms, the legality of whose use is subject to the provisions and requirements of the Criminal Code and is determined on a case-by-case basis by senior staff in the ministry concerned and by the public procurator subsequent to an assessment of the circumstances surrounding such use. Such circumstances include:

- Necessary self-defence (provided for in article 37)
- Injury to offender during detention (provided for in article 38)
- Extreme urgency (provided for in article 39).

204. Submissions by citizens in relation to disappearance (abduction) cases are processed by police officers who draw up a formal record. Investigations into such cases are specifically monitored by senior staff through periodic follow-up reports drawn up by the operations team.

205. Since achieving independence, Turkmenistan has made tangible progress in reducing child mortality. As a result of a set of targeted measures, including the "Health" programme, infant mortality per thousand live births declined to 14.0 in 2004 and to 12.1 in 2005. Thereby, Turkmenistan practically attained the 2015 level targeted in the Millennium Development Goals (MDGs).

	2004	2005	2006	2007	2008
Infant mortality	14.0	12.1	12.1	12.3	14.4

206. In January 2007, the Ministry of Health and the Medical Industry introduced the criteria recommended by the World Health Organization (WHO) with regard to the reporting of live births and infant deaths by health establishments.

207. Children's nutrition during the early years of life is crucial to their normal physical and mental development. At that age, growth is particularly intensive and the basic motor and learning faculties are developed. In that context, nutrition is a key factor in reducing child morbidity and mortality. Ensuring the health of children, who form the next generation, is one of the Government's fundamental tasks. According to WHO data, 50 per cent of the children who die have experienced problems related to inadequate nutrition. Proper breastfeeding alone may reduce child mortality by more than 10 per cent. In view of problems related to that issue, efforts for the protection and support of breastfeeding were

launched in 1998 (through the Ministry of Health and the Medical Industry circular No. 408 of 9 December 1998). The primary goal of the initiative is the implementation of “Ten principles of successful breastfeeding” in maternity units. Currently, 62 of the establishments concerned (95 per cent of the total) have won the label of “Child-friendly hospital”.

208. Subsequent to the “Child-friendly hospital” initiative, exclusive breastfeeding indicators for given duration levels increased considerably, namely from 8 to 76.8 per cent for 2 months; from 5 to 44.4 per cent for 5 months; from 75 to 84.3 per cent for 12 months; from 61 to 86.6 per cent for 18 months; from 16 to 46 per cent - viz. by a factor of 3 - for 24 months. The 6-month indicator was 41.5 percent (Medical and Demographic Research 2000, and Scientific and Clinical Centre for Maternal and Child Health Care 2007).

209. The Foodstuffs Quality and Safety Act of 28 April 2009 provides a framework for Government policy on foodstuff quality and safety aimed at ensuring public health, and for foodstuff trade relations.

210. The Breastfeeding Protection and Promotion and Infants’ Food Requirements Act of 28 April 2009 provides a framework for Government policy on supporting, protecting and promoting breastfeeding and addresses the issues of ensuring nutritious and safe food for children and of the manufacture of infants’ food.

211. Through Presidential Decrees No. 2526 on salt iodination and flour enrichment with iron of 28 May 1996 and No. 7855 on the addition of folic acid and iron to the flour produced of 24 April 2006, Turkmenistan became the first country in Central Asia to fortify wheat flour.

212. The preventive strategy for overcoming iodine scarcity in Turkmenistan is based on generalized salt iodination as the most cost-effective method. A 2006 study of the spread of diseases related to iodo-deficiency among children and pregnant women confirmed the steady and adequate level of iodine consumption through food and the elimination of iodo-deficiency in the country. Turkmenistan is the fourth country in the world and the first in the Commonwealth of Independent States (CIS) to have achieved universal salt iodination and the eradication of iodo-deficiency in the population.

213. A Plan including measures for disease prevention through food enrichment, 2008-2009, has been drawn up, and is currently implemented. At present, 100 per cent of top quality flour produced in Turkmenistan is enriched with iron and folic acid. With a view to the effective and sustainable implementation of the programme for the prevention of iron deficiency anaemia in accordance with Presidential Decree No. RV-4038 of 11 January 2008, and in cooperation with the National Bread Association and the United Nations Children’s Fund (UNICEF) a long-term memorandum was concluded for the purchase of iron and folic acid (premix). The memorandum ensures the continuous and regular purchase by the Government, through UNICEF, under conditions of financial independence, of quality iron and folic acid necessary for flour production.

214. In the area of primary medical assistance, the immunization of children is the basic and most cost-effective measure for preventing infectious diseases. Currently, the development of the immunization system relies on the successful implementation of a national immunoprophylactic programme through 2020 and a multi-year immunization plan under strict Government control. An inter-agency immunization coordination committee operates towards the attainment of defined goals. Broad access to vaccines is one of the public health system’s major achievements so far. The extended immunization programme (RPI) requires the protection of children against nine vaccine-preventable infections, namely poliomyelitis, tuberculosis, tetanus, diphtheria, whooping cough, hepatitis B, measles, rubella and mumps. Immunization is conducted with quality vaccines, certified by WHO and purchased through UNICEF with State budget funds. Vaccines are delivered in complete sets containing auto-destruct disposable syringes and injection safety kits. A procedure for monitoring post-vaccination reactions is followed. All children are

inoculated free of charge. Planned immunization against vaccine-preventable infections has attained high indicator values and continues at an appropriate level. As a result, child morbidity, mortality and disabilities due to such infections have substantially decreased. Currently, the country is on the verge of eliminating German measles, rubella and preventing rubella-related infections. The Government has adopted a programme entitled "Measles and rubella-related infections prevention". In 2007, the immunization programme was enhanced by including the measles-mumps-rubella (MMR) combination vaccine in the inoculation plan. In October and November 2007, a nation-wide immunization campaign was conducted against measles and rubella among persons aged 7-40. Moreover, every 5 to 7 years, large-scale inoculation of adults is carried out using exhausted diphtheria-tetanus vaccines, modified (ADS-M) with anatoxin. The Government plans to introduce the Hib pentavalent combination vaccine into routine vaccination procedures in 2010.

215. WHO has certified Turkmenistan, along with 52 European countries, as polio-free. Currently, the country faces the task of confirming that status as part of the worldwide full eradication of poliomyelitis. To that end, additional oral polio vaccines were administered in 2007 to children aged up to 5 in border and high migration areas.

216. In view of increased international trade and social contacts, particularly with neighbouring countries, a national "Malaria prevention programme, 2005-2010" has been adopted and launched. In fulfilment of commitments under the Tashkent Declaration "The Move from Malaria Control to Elimination", the Government has drawn up and adopted a "National strategic plan for the elimination of malaria, 2008-2010".

217. Turkmenistan supports and implements a strategy for the achievement of MDGs in the Europe region, particularly by building the country's capacities in the health sector.

218. In view of Turkmenistan's location, the existence of a port, border-area rivers, railway stations, airports and international highways, and an increase in migratory processes, sanitary control throughout the territory is crucial to the protection of the population against epidemics and the preservation of health nationwide. The sanitary protection of the territories of Turkmenistan is ensured within the framework International Health Regulations (2005). Such control is exercised through a State system comprising medical and sanitary measures (regarding organization, health care, hygiene, treatment and prevention) aimed at averting the entry and propagation in the territory of particularly dangerous infections, toxic substances, industrial wastes and other potentially hazardous cargoes. The nature and implementation of these measures are specified in the following legal instrument:

- Health Code of 19 May 1992
- State Borders Act of 1 October 1993
- Customs Code of 8 October 1993
- Citizens' health protection Act (revised version) of 25 October 2005
- Foodstuffs Quality and Safety Act.

A basic role in the above system is played by the National Sanitation and Epidemiology Department sanitation and quarantine control units at border entry-points. That important public role is ensured by the provisions relating to such entry points and units, medical or sanitary inspection at those points, operational plans, instruction documents and methodological guidelines. The Council of Ministers adopts five-year inter-agency plans laying down measures to be taken as described above with a view to comprehensive health protection in the national territory. The preparation for such measures consists of preliminary organization, personnel training on specific standard methods, logistical preparation of human and material resources for epidemics prevention and treatment, analogous reorganization of health establishments, and steps for treating



quarantined patients. Daily health protection work at the national level reflects the various factors and particular situations in various parts of the country. Every year, 15-20 million hectares of natural epizootic hotbeds are inspected. Epidemiological tracking and efforts to build laboratory capacities for identifying new infections and smothering potential pandemics are undertaken on a continuous basis. Further improvements to the country's health protection system will be based on differentiated approaches to determining the scope of preventive measures, taking into account migratory flows, the expected development of economic ties with other countries, special epidemic features of particularly menacing infections, and the requirements of the International Health Regulations (2005).

219. The Food Security Act, adopted in 2000, defines the main thrusts of the Government's food security policy and the legal basis for the realization of the citizens' right to healthy and nutritious food.

220. The Health Code currently in force governs relations with respect to the protection of the population's well being in the areas of adequate sanitation and defence against epidemic diseases, radiation and environmental hazards. There are plans to introduce soon additions and amendments to various legal instruments with a view to broadening the functions and responsibilities of public sanitation and epidemiological services. The Foodstuffs Quality and Safety Act, in its amended version, is expected to enhance the availability of quality food products by defining the main thrusts of the Government's policy on foodstuffs quality and safety in respect of the population's health and by regulating relations in the areas of production, warehousing, purchase, delivery, processing, storage, transport and marketing (including export and import) of foodstuffs and materials and supplies used in such activities.

221. Under article 271 (1) of the Criminal Code, terrorism, namely causing an explosion or fire or other acts that jeopardize human life, cause significant property damage or have other dangerous consequences for society, where those acts are committed to violate public security, cause panic or influence decision-making by Government authorities, including the threat to commit such acts for those purposes, is punishable by imprisonment for 5-10 years. Under paragraph (2) of the same article, such acts carry imprisonment for 8-15 years when committed:

- (a) Repeatedly;
- (b) With the use of firearms;
- (c) By a group of plotters.

Under paragraph (3) of the article, such acts carry imprisonment for 10-25 years, if they cause death or are committed by an organized group or a criminal organization. The article contains a note to the effect that a participant in the preparation of a terrorist act is absolved of criminal liability, if he/she, by alerting law-enforcement units in a timely manner, or otherwise, contributes to preventing the terrorist act, and if his/her action does not involve another offence.

222. Under article 173 (1) of the Criminal Code, sabotage, namely an act intended to kill, harm human health or damage or destroy property in order to destabilize the operation of public bodies or the social or political situation or to undermine the country's economy or defence, is punishable by imprisonment for 8-15 years. Under paragraph (2) of the same article, such acts carry imprisonment for 10-25 years when they cause death or have other grave effects.

223. Crimes involving abduction or hostage-taking endanger human life and health and are addressed in two articles of the Criminal Code. Under article 126, on abduction, and in particular paragraph (3), the crime in question, perpetrated for ransom, is punishable by imprisonment for up to 15 years. Under article 130, on taking hostages, the crime in

question, if aggravated by murder threat or bodily injury, is punishable by imprisonment for up to 20 years. The procedure for investigating the afore-mentioned is laid down in the Investigative Procedures Act of 23 September 1994.

224. Under article 274 (1) of the Criminal Code, banditry, namely setting up and leading an organized armed group (band) for the purpose of attacking citizens or organizations, constitutes a crime and so does, under paragraph (2) of the same article, participation in attacks committed by a band. Under paragraph (1) of the article, such acts are punishable by imprisonment for up to 25 years.

225. Under article 39 of the Criminal Code, a person who, through an act bearing the characteristics of a crime, removes a danger to life, health, the rights and legitimate interests of one or more other persons or the interests of society or the State is absolved of criminal liability.

226. The Police Act and the Internal Troops Act lay down rules for the use of firearms.

227. Under article 16 of the Police Act, members of the police may use firearms as a measure of last resort in the following cases:

- Protection of citizens from aggression threatening their life or health, and liberation of hostages
- Repulse of a group assault or armed attack on fellow police officers or other law-enforcement or crime-control personnel, or of an attack endangering their own life or health
- Repulse of a group assault or armed attack on the living quarters of citizens, facilities specifically guarded by the police, living quarters of State or public officials, enterprises, establishments or organizations; and repulse of an attack on a military or police unit
- Arrest of a person offering armed resistance or caught while committing a violent crime, of a fugitive criminal or of an armed person refusing to comply with a legal order to disarm.

Use of a firearm must be preceded by a warning about the intention to use it.

228. Firearms may be used without warning in the event of:

- A surprise or armed attack or an assault employing military equipment, vehicles, aircraft or sea or river vessels
- An escape with use of a weapon or any means of transport
- An escape from any means of transport in motion
- An attempt to liberate hostages.

229. Weapons may not be used against women or minors unless such persons participate in an armed or life-threatening group attack, hostage taking operation or air-, sea- or other piracy, or offer armed resistance.

230. Members of the police may use firearms to:

- Immobilize a vehicle by damaging it, if the driver actually endangers the life or health of citizens and does not obey a legal police order to stop
- Neutralize an animal threatening the life or health of citizens
- Sound the alert or ask for reinforcements.

In all cases of using a firearm, members of the police are required to take the measures necessary for the safety of any citizens in the area and for emergency medical

assistance to any victims, and to inform the victims' relatives or statutory representatives. Moreover, a report is drawn up and immediately transmitted to the public procurator.

231. Under article 17 of the Internal Troops Act, soldiers of internal troops, in carrying out their duties, may use firearms in the following cases, if other methods and means have proved ineffective:

- Protection of citizens from a life- or health-threatening attack; and liberation of hostages
- Repulse of a group or armed attack on guarded facilities, sentinels, others members of a military detachment or a guardhouse; and repulse of an attempt by outsiders to penetrate guarded facilities
- Repression of mass disturbances in penitentiaries, pretrial detention centres and prisons, in connection with riotous attacks, destruction, arson, murder, hostage-taking or other offences
- Arrest of a person offering armed resistance or caught while committing a violent crime, of a fugitive criminal or of an armed person refusing to comply with a legal order to disarm
- Repression of acts dangerous for the public, which are accompanied by arson, destruction and attempted armed seizure
- Group assault or armed attack against detainees.

232. Use of a firearm must be preceded by a warning about the intention to use it. Firearms may be used without warning in the following cases:

- Surprise or armed attack, attack employing military equipment, vehicles, aircraft or sea or river vessels
- Escape with use of a weapon or any means of transport
- Escape from any means of transport in motion
- Attempt to liberate hostages, seized guarded facilities, buildings or special (military) cargoes.

233. Internal troop soldiers may use firearms to:

- Immobilize a vehicle by damaging it, if the driver actually endangers the life or health of citizens and does not obey when legally ordered by the soldiers to stop
- Neutralize an animal threatening the life or health of citizens
- Warn about the intention to use weapons
- Sound the alert or ask for reinforcements.

In all cases of using a firearm, soldiers are required to take the measures necessary for the safety of any citizens in the area and for emergency medical assistance to any victims. If they use firearms illegally, members of law-enforcement units bear criminal liability for abuse of authority under article 182 of the Criminal Code.

234. Under the Police Act, members of the police must locate and search for persons having committed crimes, hiding to avoid investigation, interrogation and justice, evading the enforcement of a criminal or administrative court sentence or missing, or other persons involved in cases specified by the law.

235. Under article 53 of the Constitution, the President of Turkmenistan may grant pardon and amnesty. In order to improve the procedure for considering complaints from citizens about actions by law enforcement agencies and put into practice the principles of

rule of law and equality of all citizens before the law, the President of Turkmenistan established in his office the State Commission for the review of citizens' complaints about acts by law-enforcement agencies. This was a first step towards the reform of the Turkmen legal system. As a result of the Commission's work, pardon was granted to the following numbers of detained persons by Presidential Decrees bearing the respective dates: 11 persons, 9 August 2007; 9 013 persons, including 158 aliens, 29 September 2007; 1 269 persons, including a number of aliens, 13 February 2008; 900 persons, 6 May 2008; 1 670 persons, 27 September 2008; 390 persons, 6 December 2008; 977 persons, 17 February 2009; 1,700 persons, 15 May 2009; 1 284 persons, including 21 aliens, 9 September 2008; and 3 934 persons, including 19 aliens, 2 December 2009.

236. Article 436 of the new Criminal Procedure Code provides for the right to request setting aside a judgement, and the right to appeal. The relevant procedure may be initiated by the defendant, his/her counsel or statutory representative, or the complainant. The public procurator is required to appeal against any illegal or unjustified judgement, as provided by the law. A civil claimant or civil defendant or their representatives may challenge the part of a judgement, which is related to the civil claim. A person who has been acquitted may challenge the grounds or justification for the decision. Supreme Court judgements may be appealed under the procedure established by the law.

## **Article 7**

237. Under article 23 of the Constitution, citizens may not be limited in their rights or deprived of the rights due to them or convicted or punished otherwise than in strict compliance with the law.

238. No one may be subjected to torture or cruel, inhuman or degrading treatment or punishment or, without his/her consent, to any medical treatment (through drugs or by a physician) or any experiments.

239. Citizens have the right to claim through a court of law damages for material and moral injury caused by illegal activities of Government bodies, other organizations or their employees, or private individuals.

240. No one may be obliged to testify or provide explanations against himself/herself or his/her close relatives.

241. Evidence obtained through psychological pressure or violence and other unlawful methods lacks legal force.

242. Under article 3 of the Criminal Code, the aim of punishment and other criminal-law measures applied to offenders may not be to cause physical suffering or to destroy human dignity through humiliation.

243. Under article 172 of the Criminal Procedure Code, pretrial detention must be based on a decision taken by the investigator or the official conducting the inquiry and approved by the public procurator; on a decision of the public procurator; or on a court judgement or ruling opting for detention as a means of prevention, enforced in accordance with the country's criminal law and criminal procedure law.

244. Persons under pretrial detention are confined in pretrial detention centres and, in certain cases, in prisons or remand facilities.

245. Under article 172 of the Criminal Procedure Code, if found criminally liable and remanded in custody for another offence, persons already serving a prison sentence may, on the decision of the official or organ treating the case, be detained in punitive confinement, in a correctional labour colony or in disciplinary confinement in such a colony.

246. The administration of pretrial detention centres is responsible for ensuring that the pretrial detention procedure is followed in accordance with criminal procedure law.

247. Pretrial detainees have obligations and rights applicable to Turkmen citizens under the law, subject to the Criminal Procedure Code restrictions under pretrial detention provisions.

248. The basic requirement of pretrial detention regulations is the segregated custody of detainees under constant watch, according to the procedure laid down in the Correctional Labour Code of 30 June 1971.

249. Detainees are searched, fingerprinted and photographed. Their belongings and any packages or parcels addressed to them are inspected and their correspondence is censored. They may hold no money, valuables or objects not permitted in pretrial detention centres. When removed from them, such items are recorded in personal accounts and turned in for safekeeping for the period of detention.

250. Under article 177 (1) of the Criminal Procedure Code, detainees are kept in mass cells. Exceptionally, by reasoned decision issued by the official or organ treating the case or the officer in charge of the pretrial detention facility and approved by the public procurator, they may be detained in single cells.

251. Under article 177 (2) of the Criminal Procedure Code, detainees are grouped in cells according to the following segregation criteria:

- Women are separated from men
- Minors are separated from adults
- First-time offenders are separated from those having already served a deprivation-of-freedom sentence
- Those accused or suspected of grave crimes are separated from other detainees
- Those accused or suspected of particularly dangerous crimes against the State are as a rule separated from other detainees
- Particularly dangerous recidivists are separated from other detainees
- Convicts are separated from other detainees, depending on the correctional facility regime specified in the sentence
- Aliens and stateless persons are as a rule separated from other detainees.

252. Detainees suspected or accused in the same case according to indications provided by the official or organ treating the case are detained separately.

253. Under article 178 of the Criminal Procedure Code, detainees are entitled to:

- One hour's walk daily
- One package or parcel per month
- Possession of documents and records related to the criminal case
- Use of table games and books from the library of the pretrial detention centre
- Submission of complaints and statements to State organs, public organizations and officials according to the procedure established in the Criminal Procedure Code.

254. Detainees in pretrial detention have access to the necessary standard sanitary and hygienic facilities.

255. Under article 179 (2) of the Criminal Procedure Code, detainees are ensured free-of-charge regular standard meals, an individual bed, linen and other supplies necessary for daily life. When necessary, they are issued regulation clothes and footwear.

256. Medical care, treatment, prevention and epidemiological measures are organized and taken in pretrial detention centres in accordance with the national health legislation.

257. The administration of a pretrial detention centre may allow detainees to meet with relatives or other persons only by permission of the official or organ treating the case, who as a rule may permit such meetings not more often than once a month. The duration of the meetings varies between one and two hours.

258. From the moment when the counsel has access to the case file, as attested by a written communication by the official or organ treating the case, detainees may meet with the counsel in private without any restriction as to the number or duration of the meetings.

259. Under article 181 (1) of the Criminal Procedure Code, detainees may correspond with their relatives and other persons by permission of the official or organ treating the case.

260. Under article 181 (2) of the Criminal Procedure Code, complaints, statements and letters of detainees are examined by the administration of the pretrial detention facility. Complaints, statements and letters addressed to the public procurator are not subject to inspection and are forwarded within 24 hours from the time of their submission.

261. Under criminal procedure law, complaints regarding actions by the official treating the case or the investigator are forwarded by the administration of the pretrial detention facility to the public procurator within three days from the time of their submission. Complaints regarding actions and decisions by the public procurator are forwarded to the public procurator's superior. Complaints, statements and letters on issues unrelated to the case at hand are reviewed by the administration or are forwarded as appropriate according to the procedure established by the law.

262. All persons suffering from mental disorders have, with regard to the psychological assistance that they receive, a right to:

- Be treated respectfully and humanely, excluding any humiliation or prejudice to their dignity
- Obtain information on their rights in a form that they can understand in view of their mental condition, their awareness of the disorder, and the treatment methods employed
- Consent or refuse, at any stage, to serve as a subject for testing drugs or treatments or for scientific research or training, and to be photographed, filmed or recorded on video
- Have any specialist invited to participate in the psychiatric attention that they receive at their request
- Complain about any wrongful acts by health administration staff or other officials, who infringe their rights or legitimate interests.

Under article 5 of the Mental Health Services Act of 1 October 1993, limitation of the rights and freedoms of mental patients is prohibited.

263. By resolution No. 372-1 of 30 April 1999 of the Parliament, Turkmenistan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984.

264. Turkmenistan's criminal law stipulates criminal liability for crimes against the person and for torture and related abuses. Thus, article 197 Criminal Code provides for punishment for the use of coercion on a suspect, an indictée, a victim or a witness with regard to the provision of evidence or on an expert with regard to his/her conclusions through threats; and for blackmail or other illegal actions by a public procurator, investigator or an official conducting an inquiry. Heavier punishment is stipulated where the offence is aggravated by the use of violence or derision.

265. Moreover, battery or other violent acts causing physical pain or physical or mental suffering through systematic beating are punishable under articles 118 and 119 of the Criminal Code and incur increased culpability if aggravated through their commission:

- “a) Against women whom the perpetrator knew to be pregnant;
- (b) Against a person, or that person's close relatives, in connection with the fulfilment of that person's official or public duty;
- (c) Against a minor; a person whom the perpetrator knew to be in a state of helplessness or of material or other dependence on the perpetrator; or on a person who has been abducted or taken hostage;
- (d) By two or more persons not in collusion or by a group of persons in collusion;
- (f) Out of social, national, racial or religious hatred or hostility.”

266. The Criminal Code does not define torture. Under article 113 of the Criminal Code, however, abuse, including with the use of torture, is punishable by imprisonment for 3-7 years.

267. Under article 110 of the Constitution, the Procurator-General of Turkmenistan and his subordinate public procurators monitor compliance with the laws to ensure that it is strict and uniform.

268. Article 3 of the Public Prosecution Act lays down the objectives and basic rules guiding the activity of public prosecution organs in monitoring:

- Compliance with the:
  - Citizens' social, economic, political and other rights and freedoms
  - Rights of State organs, Armed Forces and other military commands, local Government, enterprises, establishments, organizations and public associations
  - Rights of industrial, economic and commercial actors
  - Law enforcement by national security and crime control bodies
  - The legality of judicial decisions
  - Compliance with the law in detention facilities.

269. The Complaints by Citizens and Procedure for their Consideration Act of 14 January 1999 specifies a mechanism allowing citizens to exercise their right to file complaints against State, public and other bodies, enterprises, organizations and establishments of any type of ownership, and regulates the procedure for considering such complaints. Under article 13 of the Act, violations of the procedure in question comprise the superficial and biased consideration of issues raised in complaints, red tape, infringement of ethical standards in relations with applicants, unjustified refusal to consider complaints, and prosecution of a citizen in connection with a complaint involving persons bearing disciplinary, administrative, material or criminal liability. The Criminal Code does not stipulate criminal liability for violations under that article.

270. Under criminal procedure law, pretrial detention is a preventive measure taken against an indictee, a defendant or a suspect for a crime punishable by imprisonment. Pretrial detention procedures are specified in the Criminal Procedure Code, the Pretrial Detention Regulation, and other laws.

271. Under article 23 of the Criminal Procedure Code, violence, threats or other illegal methods may not be used to obtain evidence from a suspect, indictee, defendant or other persons involved in a case.

272. Turkmenistan's accession, in 1992, to the Geneva Conventions for the protection of war victims of 1949, to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), and to the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), and, in 1999, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, together with domestic legislation, ensures the protection of individuals against inhuman treatment at the international level in cases of armed conflict, and in peacetime.

273. Pretrial detention provisions also apply to detainees who have been condemned but whose sentences are not yet enforceable.

274. Under the Criminal Procedure Code, pretrial detention legislation aims at establishing rules for the confinement, in pretrial detention facilities, of persons whose detention has been decided as a measure intended to prevent them from eluding legal proceedings, obstructing the establishment of the truth in a criminal case or engaging in a criminal activity; and at ensuring the enforcement of a sentence. Such detainees are held in pretrial detention centres and, in certain cases, in prisons, other detention facilities or guardrooms.

275. Pretrial detention may not exceed three days. Under article 173 of the Criminal Procedure Code, if he/she can not be transported as a result of remoteness or inadequate transport conditions, a detainee may be held up to 20 days. Such cases, and cases in which detainees are held in a prison, are covered by articles 170-187 of the Criminal Procedure Code.

276. If they offer physical resistance to pretrial detention facility personnel or engage in other aggressive or violent behaviour, detainees may be handcuffed or straitjacketed in order to prevent them from harming themselves or others.

277. Under article 185 of the Criminal Procedure Code, in cases where a detainee attacks or deliberately takes a similar step directly threatening to the life of pretrial detention facility personnel or of others, or where the detainee escapes, a weapon may be exceptionally used, if it is impossible to counter such acts by other means. No weapon may be used, if the escapee is a woman or a minor. The pretrial detention facility administration must immediately inform the public procurator of any instance of use of a weapon.

278. The pretrial detention facility administration may take the following disciplinary measures against detainees violating the rules:

- Admonition or reprimand
- Special detention-facility cleaning chores
- Forfeiture for one month of the right to purchase food or receive the package or parcel authorized.

279. Detainees deliberately violating detention rules may, by reasoned decision of the head of the pretrial detention facility, be placed in punitive confinement for up to 10 days, or 5 days in the case of minors. This measure does not apply to pregnant women and mothers accompanied in detention by their children.



280. Under article 183 of the Criminal Procedure Code, punitive measures taken against detainees must be proportional to the nature and gravity of the misconduct. Detainees may not be subjected to measures causing physical suffering or incompatible with human dignity.

281. Detainee complaints, statements and letters are examined by the administration of the pretrial detention facility. Complaints, statements and letters addressed to the public procurator are not subject to inspection and are forwarded within 24 hours from the time of their submission. Under criminal procedure law, complaints regarding actions by the official treating the case or the investigator are forwarded by the administration of the pretrial detention facility to the public procurator within three days from the time of their submission. Complaints regarding actions and decisions by the public procurator are forwarded to the public procurator's superior. Complaints, statements and letters related to the case at hand are forwarded by the administration of the pretrial detention facility to the official or organ treating the case within three days from the time of their submission. They are reviewed by that person or organ and are forwarded as appropriate within three days from the time of their receipt. Complaints, statements and letters containing information which may help to establish the case at hand are not forwarded to the addressee, and the detainee and the public procurator are informed accordingly. Complaints, statements and letters on issues unrelated to the case at hand are reviewed by the administration or are forwarded as appropriate according to the procedure established by the law.

282. Article 45 of the Criminal Code defines basic and other types of criminal punishment, which do not cause physical suffering and are not degrading. Under article 1 of the Correctional Labour Code, sentence enforcement must be organized so as to preclude physical suffering or a degrading effect. The Correctional Labour Code aims to ensure that sentence enforcement does not only consist in punishment for the crime committed, but also contributes to the reform and rehabilitation of the convicts through genuine respect for work, strict obedience to the law and compliance with the rules of the facility; to the prevention of further crimes by the convict and by others; and to the eradication of crime.

283. The basis for the enforcement of a criminal sentence and for the subjection to detainees to correctional labour measures is solely the enforceable sentence handed down by the court.

284. Article 7 of the Correctional Labour Code specifies the following basic means of reform and rehabilitation of sentenced detainees:

“The basic means of reform and rehabilitation of sentenced detainees are: the sentence enforcement rules, socially useful labour, civic education, and education and vocational training. The means of reform and rehabilitation used must reflect the nature of the crime committed, the related menace to society, and the detainee's personality, behaviour and attitude to work.”

Pretrial detainees have the obligations and rights applicable to Turkmen citizens under the law, subject to Criminal Procedure Code restrictions under pretrial detention provisions.

285. Persons serving a prison sentence or a correctional labour non-prison sentence have the obligations and rights applicable to Turkmen citizens under the law, subject to legal restrictions applicable to convicted persons or resulting from the sentence and the respective rules under the Correctional Labour Code. The legal status of foreign citizens and stateless persons serving a prison sentence or a correctional labour non-prison sentence, is determined by the legislation defining their rights and responsibilities during their presence in the country, subject to the same legal restrictions as above.

286. All activities carried out in penitentiaries and entities enforcing correctional labour non-prison sentences must be based on strict compliance with the law. The officials of such establishments and entities are responsible for ensuring that legality. Convicted persons must constantly observe the laws laying down the relevant sentence enforcement procedures and conditions.

287. The basic requirements imposed by the rules governing detention centres are:

- Appropriate segregation of inmates
- Constant watch over them to preclude the commission of further crimes or other anti-social behaviour
- Exact and consistent fulfilment of their duties
- Detention conditions adapted to the nature of the crime committed, its dangerousness to the community, and the personality and behaviour of the inmate. Convicts wear regulation clothes and are subject to searches. Body searches are carried out by staff of the same sex as the convicts.

288. Especially dangerous recidivists, perpetrators of particularly dangerous crimes against the State, violent crimes, or crimes committed while in prison are incarcerated in individual cells. They may hold no money, valuables or objects not permitted in pretrial detention centres. When removed from them, such items are recorded in personal accounts and turned in for safekeeping for the period of detention.

289. A strict regulation is implemented in each penitentiary. The prisoners may hold no money, valuables or objects not permitted in the penitentiary. According to the procedure established in the Correctional Labour Code, they may purchase, against cashless payment, foodstuffs or necessities; receive visits; receive packages, parcels or money orders; correspond; or send money to their relatives. A list of the various items, and the respective quantities, that a prisoner may have at hand is drawn up in accordance with the regulations of the penitentiary.

290. Visits and correspondence are subject to the following rules:

- (a) In correctional labour colonies, women may:
  - Receive eight short and four extended visits during the year
  - Receive and send letters, and receive packs, packages or parcels without any limitation.
- (b) Convicts in reinforced-regime correctional labour colonies may:
  - Receive six short and three extended visits during the year
  - Receive and send letters, and receive packs, packages or parcels without any limitation.
- (c) Convicts in strict-regime correctional labour colonies may:
  - Receive four short and two extended visits during the year
  - Receive and send letters, and receive packs, packages or parcels without any limitation.
- (d) Convicts in correctional labour colonies or settlements of all types:
  - Are detained without protection but under supervision
  - May move in the area of the colony from sun-up to sun-down

- If required by the nature of their work or training and with permission from the administration of the colony, may leave the territory of the colony unsupervised but must stay within the region, the province or the country
  - May correspond, be visited by relatives or other persons, and receive packs, packages or parcels without any limitation
  - Subject to authorization by the administration of the colony and the availability of housing, may live in the area of the colony with their family, acquire a dwelling in accordance with the law and start a private business.
- (e) Convicts serving their sentence in prisons may:
- Receive letters, packs, packages or parcels without any limitation
  - Receive three short, up to two hours long, visits during the year.
- (f) Convicts serving their sentence in correctional education colonies may:
- Receive a short visit once a month
  - Receive and send letters, and receive packs, packages or parcels without any limitation.

291. Convicts in punitive or disciplinary confinement or disciplinary cells have no right to receive visits, packages or parcels, purchase foodstuffs or necessities or send letters. They may not play at table games, smoke or take walks. Convicts in disciplinary confinement or disciplinary cells may read books, magazines, newspapers and other printed material and are issued linen at sleeping time. Convicts in disciplinary confinement may walk for one hour daily. Convicts in punitive confinement, who leave it to work, do so separately from other convicts. Disciplinary cells are individual.

292. Convicts are allowed short visits of up to four hours and extended visits of up to three days. Short visits are allowed for relatives or other persons in the presence of a representative of the penitentiary. Extended visits include the right to stay with close relatives only (the convict's spouse, parents, grandparents, children, grandchildren and brother- or sister-german).

293. Convicts in correctional labour colonies of all types and in correctional education colonies may be allowed short leaves for periods of up to seven days, plus up to five days' travel time, in connection with exceptional personal circumstances, such as death or life-threatening illness or a natural disaster having caused significant material damage to the convict or his/her family. Short-leave permissions are granted by the head of the facility in consultation with the public procurator, taking into account the convict's personality and behaviour. Such leave time is included in the convict's total time of detention. Transportation is paid by the convict or his/her relatives. The convict receives no remuneration for the leave period. The procedure for such leaves is determined in accordance with the law.

294. On submission of a written statement to the public procurators by themselves, their relatives or community representatives, convicts may receive visits, unlimited in number or duration, for the purpose of legal assistance. The attorney may enter the facility upon presentation of the legal consultation authorization and an identification document. If the convict or the counsel so wishes, the meeting takes place in private.

295. The Ministry of Foreign Affairs, TNIDIPC and the German Development Cooperation Corporation periodically organize seminars, attended by international experts, to exchange experience and information on issues related to the legal regulation of a counsel's activity and role in the current civil and criminal procedure. Such seminars were held on "The role of lawyers in the administration of justice" on 25 June 2008, and on "International legal-counsel standards" on 17 June 2009.

296. Convicts may submit proposals, statements or complaints to State organs, public organizations or officials. Such submissions are forwarded as appropriate according to the regulations of the detention facility and processed according to the procedure established by law.

297. On a regular basis, the Ministry of Foreign Affairs, TNIDIPC, the OSCE centre, the German Development Cooperation Corporation and the Embassy of the United Kingdom organize human rights courses, to which international experts are invited, for the country's law establishment, including office holders (such as public procurators) and practicing jurists (such as lawyers), and which address issues related to national and international legal protection of human rights and freedoms in the administration of criminal justice.

298. Proposals, statements and complaints addressed to the public procurator are not subject to inspection and are forwarded on the same day. The outcome of the review of such submissions is communicated to the detainees upon receipt.

299. Under article 11 of the Correctional Labour Code Supervision, the Procurator-General's Office monitors compliance with the law in pretrial detention facilities and in the enforcement of prison sentences. The penitentiary administration must implement the relevant decisions and proposals of the supervising public procurator.

300. Since 2008, seminars, conferences and round tables on issues related to the improvement of the country's correctional labour legislation are organized periodically in the framework of a programme of legal cooperation between the Embassy of the United Kingdom and TNIDIPC. A blueprint for prison system reform and a new draft Penitentiary Code compatible with international standards are currently being jointly developed.

301. Appropriate medical treatment and prevention centres are set up within detention facilities for curing and controlling infectious diseases among the detainees in fulfilment of their right to health services. Treatment, prevention, sanitation and epidemiological work in such facilities are carried out in accordance with health legislation. The Ministry of Internal Affairs and the Ministry of Health and the Medical Industry establish the procedure for the provision of medical services to detainees, sanitation monitoring, organization and conduct, and recourse to the treatment, prevention and sanitation units and medical staff of health establishments.

302. Convicts subject to compulsory treatment against alcoholism or drug addiction by court decision under Criminal Code article 94 undergo such treatment while serving their sentence. If the alcoholism or drug addiction of a convict not subject to such treatment is established in the course of sentence enforcement, the penitentiary administration requests the court to impose such treatment. If the treatment in question is not completed by the time of the convict's release, the penitentiary administration, based on a medical assessment, requests the court to prolong compulsory treatment beyond the termination of the sentence.

303. Convicts contracting a chronic mental or other severe ailment preventing them from further serving their sentence may be relieved of that obligation by the court. The request for such release on the grounds of illness or disability is submitted to the court by the organ responsible for the enforcement of the sentence. Concurrently with such a request, a relevant medical-commission or occupational-physician assessment and the convict's personal file are transmitted to the court.

304. The court may, as a compulsory medical measure, order persons who committed a socially dangerous act while in a state of mental incapacity, or did so while in a state of mental capacity but subsequently contracted a mental illness before being sentenced or while serving their sentence and are therefore unable to know and own their acts, to be placed in:

- (a) A general psychiatric hospital;

(b) A specialized psychiatric hospital.

Under article 97 of the Criminal Code, compulsory treatment in a general psychiatric hospital may be imposed on a person whose mental condition requires hospitalization but not intensive observation. At first, the mental patient is placed in a specialized hospital for clinical diagnosis. Upon diagnostic confirmation of a neuro-psychiatric disorder and with the relatives' consent, psychotropic and other drugs may be administered to the patient. Compulsory treatment in a specialized psychiatric hospital may be imposed on a person whose mental condition requires constant observation. Such intensive treatment may be imposed on a person whose mental condition poses a special danger to the patient or other persons and requires constant and intensive surveillance.

305. Under article 98 of the Criminal Code, compulsory medical measures may be discontinued or changed by the court on the basis of an assessment by the psychiatric establishment in the event of recovery or of the ailment's transformation, removing the need for the measures. The court may place the patient under the care of relatives or a guardian, subject to the necessary medical attention. Under article 99 of the Criminal Code, in the case of a person having contracted a mental disorder after the offence and in the event that the patient recovers and the sentencing or sentence enforcement procedure resumes, the duration of compulsory measures is included in the period of the sentence.

306. Under article 98 of the Criminal Code, compulsory medical measures are prolonged, changed or terminated by a court of law upon a proposal submitted to that effect by the administration of the psychiatric establishment and based on the findings of a psychiatric committee.

307. At least once every six months, a person subjected to the compulsory medical measures in question is examined by the psychiatric committee, which decides whether to request the court to terminate or change the measures. If no such proposal is made, the administration of the psychiatric establishment recommends to the court to continue the compulsory treatment. The first extension of such treatment may be decided after the first six months of recourse to compulsory medical measures.

308. The court may discontinue or modify the compulsory medical measures, if a change in the patient's mental condition removes the need for the treatment or necessitates medical measures that are different. When terminating compulsory treatment in a psychiatric hospital, the court may order compulsory out-patient observation and treatment.

309. Criminal law provides for liability for cruel treatment (battery or torture) of a minor and for non-fulfilment or inappropriate fulfilment of the professional obligation to ensure the protection of the life and health of minors by the personnel of a child- or adolescent-care unit, which - as employer - bears the liability in question, as a result of negligence or carelessness towards minors, having damaged a minor's health.

310. Turkmenistan's public health system comprises research institutions, public establishments and national centres. They conduct research related to National Academy of Sciences themes and programmes, and the relevant experimental work and tests are conducted only on appropriately selected animals. If approved in that stage, medicines are subjected to scientific clinical testing, which may be discontinued, if laboratory analysis yields unacceptable results.

311. The Ministry of Justice constitutes one of the institutional mechanisms for the protection of human rights. According to the Ministry's statute, established by Presidential Decree No. of 9944 of 6 August 2008, the Ministry of Justice is the central organ of executive power, ensuring the implementation of Government policy in the judiciary. One of the Ministry's basic tasks consists in ensuring, within the limits of its jurisdiction, the protection of the rights and legitimate interests of the individual and the State.

## Article 8

312. Under article 691 of the Criminal Code of 12 June 1997, a court of law could hand down a suspended sentence with a labour obligation. That article was repealed by an Act of 19 December 2000. Turkmen law does not provide for forced labour as punishment for the perpetration of a crime. Convicts engage, on a voluntary basis, in non-remunerated labour for purposes of training, contribution to the material well-being of their family, or reduction of damages that they owe as a result of the offence committed.

313. Under article 9 of the Police Act, the location of parolees with a labour obligation, persons serving a suspended sentence with the obligation to stay in a specific locality and persons given a prison sentence whose enforcement has been deferred by the police, is monitored by the administrative authorities.

314. In-patient psychiatric attention is provided in certain cases to ensure the safety of the patient and persons. In such cases, the medical staff constantly respects the patient's rights and legitimate interests.

315. A patient committed to a psychiatric hospital is placed in isolation only in such cases and for such periods as the psychiatrist considers necessary because the safety of the patient and other persons can not be ensured by other methods; and remains under constant observation by the medical staff. The forms and periods of isolation are entered in the relevant medical record. The police has an obligation to assist medical workers with the committal and to ensure safe conditions for approaching and examining the patient committed. When it is necessary to prevent life- and health-threatening acts by a person who has been committed or to locate and detain a person to be committed, the members of the police comply with the procedure established by the law.

316. Article 29 of the Mental Health Services Act specifies the safety measures to be taken in connection with the provision of psychiatric assistance.

317. In accordance with the Constitution and the law, human rights and freedoms are inviolable and inalienable. No one may deprive a person of any rights or freedoms or restrict his/her rights or freedoms unless the Constitution or the law otherwise provide.

318. Turkmenistan has acceded to the following international instruments related to the abolition of slavery and forced labour:

- Slavery Convention of 1 April 1927
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1957
- Protocol amending the Slavery Convention signed at Geneva, approved by General Assembly resolution 794 (VIII) of 23 October 1953
- ILO Convention No. 138 on Minimum Age for Admission to Employment of 6 June 1973
- ILO Convention No. 29 on Forced or Compulsory Labour of 10 June 1930
- ILO Convention No. 105 on the Abolition of Forced Labour of 5 June 1957.

319. The Act against Human Trafficking lays down the legal and organizational basis for combating human trafficking in the country. Through the Act, the State guarantees individual freedom and the protection of society against trafficking in human beings.

320. The Act defines the basic human trafficking concepts as follows:

- Human trafficking: All actions related to the recruitment, purchase, sale, transportation within the limits of one or more countries, transfer from person to person or harbouring of a person or group of persons by means of the threat or use of

force, embroilment in debt bondage or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, adoption for commercial purposes or by means of bribery in the form of payments or benefits to achieve the consent of a person having control over another person, and by other criminal methods, for the purpose of exploitation

- Trafficker in persons: Any individual or legal entity that, alone or in a group, commits any acts connected with human trafficking and any official, who by his/her acts or omissions contributes to that crime and, in particular, contrary to his/her official duty, fails to prevent or counter it
- Human trafficking victim: Person having suffered as a result of human trafficking, regardless of his/her consent to any transport, transfer, sale or other acts connected with human trafficking
- Recruitment: Hire, enlistment for any work or services, including illegal ones, and entanglement into any organizations, including illegal ones
- Forced labour: Any work or service required, under the threat of punishment or other forms of coercion, from a person who has not offered such services voluntarily
- Exploitation: Forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissues, and other forms of using a person for sexual activities
- Slavery: The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised
- Debt bondage: The status or condition arising from a pledge by a debtor of his/her personal services or of those of a person under his/her control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined
- Combat against human trafficking: A set of measures aimed at preventing, detecting, repressing or reducing to a minimum the effects of human trafficking, and at assisting its victims
- Crimes related to human trafficking: Crimes specified in the Criminal Code.

321. Turkmenistan's legislation on human trafficking is based on the Constitution and consists of the Act against Human Trafficking and other national normative instruments regulating relations in the area of combating human trafficking. Where international agreements concluded by Turkmenistan contain provisions other than those in the domestic law, the standards of the international agreements are adopted.

322. Government policy on combating human trafficking is aimed at:

- Taking a comprehensive approach to the problem
- Protecting the individual and society from the practice in question
- Improving legislation in the area of combating human trafficking
- Regulating relations taking shape in the process of combating human trafficking
- Preventing, identifying and repressing human trafficking

- Promoting the physical, psychological and social rehabilitation of human trafficking victims
- Meeting Turkmenistan's international obligations in the area of combating human trafficking.

323. Combating human trafficking in Turkmenistan is based on the following principles:

- Compliance with the law in combating human trafficking
- Determination to bring traffickers to justice
- Non-discrimination towards human trafficking victims
- Ensuring the security and fair treatment of human trafficking victims
- Combining legal, political, medical, social, economic, preventive and awareness-raising measures
- Cooperating with public associations and international organizations.

324. In accordance with international law standards and principles, Turkmenistan cooperates in the area of combating human trafficking with other States and their competent authorities and international organizations engaged in that combat and in defending the rights and legitimate interests of human trafficking victims.

325. Under article 33 of the Constitution, citizens have the right to work and choose an occupation, type of employment and place of work, and are entitled to safe and healthy working conditions. Wage earners are entitled to compensation commensurate with the quantity and quality of their work. Such compensation may not be less than the subsistence minimum established by the State.

326. Under article 47 of the Constitution, the exercise of civil rights and freedoms may be temporarily suspended only in the event of a state of emergency or martial law according to the procedure and within the limits established by the Constitution and the law.

327. Under article 64 of the Labour Code, an employer may require overtime only in the following exceptional cases:

- Preparation for a natural disaster, prevention of an industrial accident, immediate elimination of the consequences of such occurrences, and avoidance of accidents; and, in the case of health establishments, need for emergency medical assistance
- Socially necessary interventions on an unexpected or random problem related to such utilities or services as water or gas supply, heating, lighting, sanitation, transport or communications
- Need to complete work begun but delayed by unforeseen technical circumstances necessitating additional labour input, if failure to deliver on time may affect assets of the State or the employer
- Occasional tasks related to the repair or restoration of machinery or buildings whose malfunction may interfere with the activity of a significant number of workers
- Need to continue a job which should not be interrupted, if the relief fails to show up. In such cases, the employer must immediately take measures to ensure replacement
- Other cases specified by law.



Overtime is not allowed in the case of:

- Pregnant women
- Workers under 18 years of age
- Other worker categories specified by law.

328. Under article 44 of the Criminal Code, correctional labour is a form of punishment. Under article 50 of the same code, such labour is imposed by court decision for a period of two months to two years and takes place at the sentenced person's place of work or elsewhere in the area of that person's residence. Of the total correctional labour earnings, the State retains a 5-20 per cent share specified in the sentence. Correctional labour may not be imposed on persons with disabilities, adolescents under 16, pregnant women, women on maternal leave, retirees, soldiers, pupils and higher education students.

329. Under article 51 of the Correctional Labour Code, the administration of any correctional labour facility must ensure the assignment of sentenced persons to socially useful labour, taking into account their ability to work and, if possible, their special skills. As a rule, such persons are assigned to work in correctional labour facility enterprises. Correctional work for prisoners is organized only in the vicinity of the prison. The regulation of the correctional labour facility specifies the types of work and positions to which detainees may not be assigned. Correctional labour organization complies with the segregation criteria specified in article 18 the Correctional Labour Code.

330. The correctional labour of sentenced persons working in production units of other ministries and departments is organized so as to meet segregation and protection requirements. The industrial and economic activity of correctional labour facilities is subordinated to their basic task, namely the reform and rehabilitation of detainees. Under article 52 of the Correctional Labour Code, the length of the working day in such facilities and in prisons is eight hours. The beginning and end of daily or shift work is specified in the facility's regulations. Detainees are entitled to one day off per week and, according to labour law, do not work on holidays. If labour on a day off or holiday is necessary, detainees are given an equivalent number of days off within one month.

331. For some types of activity, where production conditions do not allow specifying an exact daily or weekly number of hours, the detainees' total time worked over a given period is noted in order to ensure, in accordance with labour legislation, that the average daily number of hours of work in that period does not exceed eight hours. The length of the working day and the weekly number of days off for detainees in correctional labour colonies or settlements and in correctional education colonies are determined on the basis of the general labour-law provisions.

332. Detainees are not entitled to regular leave while serving their sentence. Female detainees are excused from work on the grounds of pregnancy and childbirth for periods stipulated by labour law.

333. Correctional labour does not count in determining an individual's total length of employment. However, if performed honestly and with exemplary behaviour through the period of the sentence, such labour may count towards total length of employment subsequent to a petition by the detainee, once released, and the work collective.

334. Under article 41 of the Constitution, the protection of Turkmenistan is every citizen's sacred duty, and military service is compulsory for all of the country's male citizens. Under article 15 of the Military Obligations and Service Act, male citizens aged 18 to 30 and not entitled to exemption or deferment are subject to the draft. A citizen may enlist upon turning 18 or, if he states his wish to enlist as a volunteer, 17.

335. Article 33 of the Act defines the following lengths of active military service:

- Call-up conscripts: 24 months
- Call-up conscripts serving on ships, other vessels and in combat support coast garrisons: 30 months
- Call-up conscripts with higher education: 12 months
- Ex-servicemen holding the rank of officer and called for military service: 24 months
- Other persons fulfilling a military service obligation: Period up to the legal age limit.

336. Under article 16 of the Act, conscription does not apply to persons who:

- Have been found unfit for military service on health-related grounds
- Have done military service
- Have done military or alternative (work) service in the armed forces of another State.

Any citizen whose brother perished fulfilling his duties during military service is exempted from such service.

337. A citizen is not subject to the draft if he:

- Is serving a correctional labour or prison sentence
- Has been convicted for a crime of limited gravity twice or for a crime of average gravity or for a grave or particularly grave crime
- Is the subject of criminal proceedings, until the case is resolved.

Turkmen law does not provide for unarmed service. The conscription of persons not having served, graduates of higher education institutions and reserve officers is governed by the Enlistment Regulation approved by the President of the Republic and takes place on the basis of Presidential Decrees. Military service begins on the date of recruitment and entry in the military personnel roster, and ends upon removal from that roster. Reserve training time counts as military service time.

338. Under article 1 of the Employment Act of 12 November 1991, administrative imposition of compulsory labour is prohibited, save for cases specified by the law. The fact that a citizen is voluntarily unemployed may not serve as grounds for administrative, criminal or other action against him/her.

339. Citizens may not be compelled to work, save for the cases of war, the need to deal with the effects of a natural disaster, an epidemic or other emergency, or the obligation to serve a sentence.

340. In the event of deliberate refusal to comply with punitive deduction of earnings, the court may replace the outstanding balance of correctional labour with imprisonment, counting three days in prison for one day of labour missed.

341. Correctional labour performed by detainees does not count in determining total length of employment, save for the cases specified by the law. Under article 52 of the Correctional Labour Code, correctional labour is organized with due regard for the industrial safety standards and methods specified by labour legislation.

342. Convicts may be required by the correctional labour facility administration to work without pay only for the improvement of the detention facility, the surrounding space, and the general living and cultural conditions for detainees. Such work is usually scheduled during leisure time as a matter of priority, and must not exceed two hours per day.

## Article 9

343. A mental patient may be hospitalized in a psychiatric establishment without his/her consent or the consent of his/her statutory representative by court order, if observation or treatment is possible only on an in-patient basis, and if the mental disorder is serious and causes:

- Direct danger to the patient or other persons
- The patient's helplessness, namely his/her inability to meet basic vital needs
- A substantial deterioration of the patient's health, in the absence of psychiatric attention.

Save for the above cases, placement in a psychiatric establishment occurs voluntarily, namely upon the patient's request or consent, and is based on the existence of a mental disorder, the psychiatrist's decision to examine or treat the patient in such an establishment, a court decision or the need to conduct a psychiatric examination in cases and according to procedures specified by the law.

344. The psychiatrist takes his/her decisions independently, and on the basis of the diagnosis and his/her obligation to treat the mental patients and to prevent them from possibly committing acts dangerous to the community; and is guided solely by medical considerations, medical duty and the law.

345. Under article 23 of the Constitution, citizens may not be limited in their rights or deprived of the rights due to them or convicted or punished otherwise than in strict compliance with the law.

346. A citizen may be arrested only by court decision or a public procurator's order, stating clearly the legal basis for the arrest.

347. Under article 13 of the Criminal Procedure Code, every individual is entitled to freedom and personal inviolability. No one may be arrested on the basis of a suspicion of perpetration of a crime, or detained or otherwise deprived of freedom except by due process under the Criminal Procedure Code. Under article 193 of the Criminal Code, deliberately bringing criminal charges against an innocent person, and illegal detention, placement in custody or pretrial detention are punishable acts.

348. Under article 146 of the Criminal Procedure Code, if there are reasonable grounds for presuming that a suspect, indictee or defendant, if free, may elude legal proceedings, obstruct the establishment of the truth in a criminal case, or engage in a criminal activity, then, taking into consideration the gravity and danger of the crimes concerned or wishing to ensure the enforcement of a sentence, the investigating officer, examining magistrate, public procurator, judge or court may take, according to the procedure established in the same code, with respect to the suspect, indictee or defendant, one of the repression measures stipulated in article 147 of the code.

349. Under article 149 of the Criminal Procedure Code, in exceptional cases, if there are sufficient grounds under article 146 and in view of the circumstances referred to in article 148 of the same code, a repression measure may be taken with respect to a person suspected of a crime, and that person may be indicted. In that case, charges must be brought within ten days from the date of application of the repression measure or, if the suspect is arrested and then detained, from the date of the arrest.

350. Under article 147 of the Criminal Procedure Code, other repression measures are the following:

- Written pledge not to leave
- Personal guarantee

- Guarantee by a public organization
- Warrantee
- Remand in custody.

351. In the case of minors, the repression measure may be placement under the care of the parents, the foster parents, the guardian or, for minors brought up in a closed child welfare institution, the administration of that establishment.

352. Written pledge not to leave consists in the obligation, undertaken by the indictee or suspect, not to be absent from his/her place of residence or temporary stay without the permission of the official treating the case, the investigator, the public procurator or the judge. A personal guarantee is a written statement by trustworthy persons guaranteeing the proper behaviour and appearance of the suspect or the indictee before one of the said officers, as appropriate. At least two personal guarantees are required. Guarantee by a public organization is a written statement by the organization guaranteeing the proper behaviour and appearance of the suspect or the indictee, as above.

353. Under article 140 of the Criminal Procedure Code, the criminal prosecution organ may detain a person suspected of a crime punishable by imprisonment, on the following grounds:

- The person has been caught while immediately after committing the crime
- Eyewitnesses, including victims, directly recognize that person as the offender
- Clear traces of the crime are discovered on the suspect, on his/her clothes, on items used by the person and carried by him/her or located in his/her home or in/on his/her vehicle
- In addition to possibly incriminating evidence, the person in question tried to flee, has no permanent residence or has not proven his/her identity.

354. Under article 141 of the Criminal Procedure Code, the criminal prosecution organ must without delay, and at any rate within 24 hours, inform the family or close relatives of any arrested suspect about the arrest and the suspect's whereabouts.

355. Under article 244 of the Criminal Procedure Code, when the available evidence suffices for bringing charges against a specific person for the commission of a crime, the investigator draws up a reasoned decision to indict that person.

356. The person thus accused has a right to know the charges brought; offer an explanation in relation to the charges; bring evidence; file a petition; upon completion of the investigation or preliminary inquiry, have knowledge of all elements in the file; have a counsel; participate in judicial proceedings at the court of first instance; file objections; and file complaints regarding actions and decisions by the official treating the case, the investigator, the public procurator and the judge. Charges must be filed within two days after the indictment and in any case on the day of the appearance or presentation of the indictee. The time limit for filing charges is lifted, if the indictee eludes the proceedings. After ascertaining the identity of the indictee, the investigator formally presents and states the substance of the charges to the indictee.

357. The Criminal Procedure Code stipulates the length of the period of investigation in article 237, of the preliminary inquiry in article 230 and of the examination of the case as from its arrival at the court in article 349.

358. Under article 354 of the Criminal Procedure Code, the indictee has the right to participate in the first instance hearing, in which his presence is actually required.

359. Under article 81 of the Criminal Procedure Code, the counsel is appointed by the indictee, his/her statutory representative or others on the instructions or by consent of the indictee. Under article 83 of the code, the indictee may waive legal counsel at any time during the proceedings. Such a waiver may occur solely on the initiative of the indictee. However, the presence of a counsel is required in certain cases and, under article 82 of the code, the investigator or the court must ensure a counsel's presence in the proceedings.

360. Under article 108 of the Constitution, the right to professional legal assistance subsists at any stage of legal proceedings; and such assistance is provided to citizens and organizations by lawyers, and other individuals and organizations. Under article 200 of the Criminal Procedure Code, the head of the college of lawyers or the executive committee of the Bar may, according to the procedure stipulated by law, fully or partially exempt the suspect, indictee, or defendant from the payment of fees to the counsel, whose remuneration in that case is provided by the executive committee of the Bar.

361. The Criminal Code provides for punishment for the use of coercion on a suspect, an indictee, a victim or a witness with regard to the provision of evidence or an expert with regard to his/her conclusions through threats, blackmail or other illegal actions by a public procurator, investigator or an official conducting an inquiry.

362. The criminal liability of minors occupies a special position in domestic law. Criminal procedure provisions pertaining to minors differ significantly from the general rules, and the punishments imposable on minors under criminal law are considerably more humane. Under article 21 of the Criminal Code, persons who attained the age of 16 years before the commission of an offence are criminally liable. Persons having committed a crime when aged 14-16 are criminally liable for premeditated murder (under article 101), deliberate harm to health (under article 107), deliberate harm of average gravity to health (under article 108), rape (under article 134), theft (under article 227), robbery (under article 230), brigandry (under article 231), extortion (under article 232), vehicle theft (under article 234), deliberate destruction or degradation of property (under article 235 (2)), theft or extortion of weapons, ammunition, explosives or explosive devices (under article 291), illegal production, procession, acquisition, storage, transportation or forwarding of narcotic drugs or psychotropic substances for the purpose of sale (under article 292), and theft or extortion of narcotic drugs or psychotropic substances (under article 294).

363. Under article 31 of the Criminal Procedure Code, non-attainment by a person of the minimum age for criminal liability at the time of an offence precludes criminal proceedings against that person. Under article 57 of the Criminal Code, minority of a person found guilty reduces that person's liability.

364. Under article 51 of the Criminal Procedure Code, a counsel must be present at the examination of cases involving minors at the court of first instance. Under article 52 of the same code, an under age defendant's stated refusal to have a counsel is not binding on the investigator, the public procurator or the court.

365. Article 254 of the Criminal Procedure Code outlines the special conditions applicable to the examination of cases involving minors during the preliminary inquiry and court proceedings. The article regulates summoning an accused minor under 16, through his/her parents or other statutory representative, to appear in court for questioning. The teacher is summoned to the examination of witnesses where the indictee is up to 14 of years old and, at the discretion of the investigator, where the indictee is aged 14-16. Where necessary, the minor's statutory representatives or close relatives are also summoned.

366. According to article 512 of the Criminal Procedure Code, the questioning of a suspect, indictee, or defendant who is a minor takes place in the daytime and may not continue for more than two hours without a break nor take more than four hours a day. Such questioning is conducted with the participation of the public procurator, the minor's statutory representative and, where appropriate, the teacher.

367. Chapter 13 of the Criminal Code deals with the special characteristics of criminal liability and punishment in the case of minors. Under article 88 of the Criminal Code, the court may not inflict any punishment but impose compulsory educational measures or placement in a special educational or therapeutic educational establishment, provided that the minor is a first-time offender, the crime and its consequences are of little or average gravity, and the information on the minor's personality and other relevant circumstances indicate that reform without punishment is possible.

368. Under article 53 of the Criminal Code, deprivation of freedom consists in confinement in a correctional labour colony or in imprisonment. Deprivation of freedom may be imposed for a period of 6 months to 20 years or, in exceptional cases specified in the code, 25 years. In the case of partially or fully aggregated sentences, total duration of deprivation of freedom may not exceed 20 years or, in exceptional cases specified in the code, 25 years.

369. Under article 13 of the Criminal Procedure Code, every individual is entitled to freedom and personal inviolability. No one may be arrested on the basis of a suspicion of perpetration of a crime, detained or otherwise deprived of freedom except by due process under the Criminal Procedure Code. Any person arrested must immediately be informed of the grounds for detention and of the characterization of the offences of which he/she is suspected or accused. The court and the public procurator must immediately free any person who is illegally arrested, detained, placed in a medical establishment or held beyond the period specified by the law or the sentence.

370. Under article 22 of the Criminal Procedure Code, criminal legal procedure is based on the principle of adversarial presence and equal rights of the parties, which are held to be equal. The Constitution and the Criminal Procedure Code provide them with equal opportunities to state their case. The court bases its decision solely on evidence examined in a procedure in which the parties have participated on an equal footing.

371. Under article 27 of the Criminal Procedure Code, all court hearings are open to the public save for cases where such practice is incompatible with the protection of State secrets. By reasoned ruling of the judge or court hearing a case involving an offence by minor, a sexual crime or other matters, the public may be excluded in order to preserve the privacy of information on intimate aspects of the life of the parties. Cases heard in private comply with all rules of due process. In all cases, the sentence and all related court decisions are announced publicly.

372. Under article 24 of the Criminal Procedure Code, the right of the suspect, indictee or defendant to protection is guaranteed. That right may be realized by the person concerned and with the help of that person's counsel or statutory representative according to the procedure established in the code. The investigating officer, examining magistrate, public procurator or judge must ensure that the suspect, indictee, defendant, convicted offender or exculpated person has the possibility to defend himself/herself against the charges brought and to ensure the protection of his/her personal and property rights.

373. Under article 43 of the Criminal Code, punishment is a penalty for the commission of an offence. As a State coercion measure, the punishment specified in a court sentence is imposed on a person found guilty of an offence and consists, in the cases provided for by criminal law, in deprivation or limitation of the rights and freedoms of that person. Punishment is imposed with a view to restoring social justice, reforming the person sentenced and preventing the commission of further offences. Punishment does not aim at causing physical suffering or destroying human dignity through humiliation.

374. The suspect or the indictee has the right to:

- Be informed of the charges brought and of the indictment
- Have his/her place of detention communicated to his/her family, close relatives or work colleagues

- Participate in investigations undertaken at his/her own or his/her counsel's or statutory representative's request
- Have knowledge of and enter observations on the records of investigation or other proceedings-related acts performed at his/her own or his/her counsel's or statutory representative's request
- Give, or forego giving, testimony regarding the charges or other circumstances relating to the case, and regarding the evidence
- Provide evidence
- File petitions
- Testify in his/her native language or a language that he/she can effectively employ, and use the services of a translator
- Provide handwritten testimony authenticated by his own signature
- Request the examination of sound and the video recordings
- Appoint a counsel as provided by the law, benefit from free legal assistance, or forego the services of a counsel and opt for acting as his own counsel
- As soon as the counsel has access to the case file, meet with the counsel in private and confidentially, without any restriction as to the number or duration of the meetings
- Have knowledge of any decision or ruling by the organ conducting the criminal proceedings to have an expert designated; and of the expert's report
- Be informed of the completion of the investigation or preliminary inquiry and have knowledge of all elements in the file
- File objections
- File complaints regarding actions, omissions and decisions by the official treating the case, the investigator, the public procurator or the judge.

375. The counsel may participate in the proceedings from the moment when the person in question is questioned as a suspect; or, if the suspect is indicted, from the moment of the indictment; or, if the suspect is arrested or is to be detained pending charges, from the moment when the suspect is presented with the detention order or decision, but no later than 24 hours after the arrest or provisional detention.

376. If it establishes that the defendant is innocent of the act attributed to him/her, the court hands down a judgement of acquittal and has that person released on the spot.

377. Bringing criminal charges against an innocent person deliberately, and illegal detention, placement in custody or pretrial detention are acts punishable under criminal law.

378. Under article 44 of the Constitution and article 1040 of the Civil Code, citizens have the right to demand through a court of law damages for material and moral injury caused by illegal activities of Government bodies, other organizations or their employees, or private individuals.

379. A suspect or indictee has a right to know the charges brought and, at any stage of the proceedings, appoint a counsel.

380. Under article 108 of the Constitution, the right to professional legal assistance subsists at any stage of legal proceedings; and such assistance is provided to citizens and organizations by lawyers, and other individuals and organizations.

381. The basic task of the country's lawyers is to provide legal assistance to citizens, organizations, legal entities, and agencies or branches of foreign companies.

382. The rights and responsibilities of lawyers are laid down in the Legal Profession Regulation. In Turkmenistan there are five regional<sup>4</sup> Bars and the Ashkhabad City Bar.

### **Article 10**

383. Turkmenistan's correctional labour legislation aims to ensure that sentence enforcement does not only consist in punishment for the crime committed, but also contributes to the reform and rehabilitation of the convicts through genuine respect for work, strict obedience to the law and compliance with the rules of the facility; to the prevention of further crimes by the convict and by others; and to the eradication of crime.

384. The enforcement of a sentence is not aimed at causing physical suffering, or destroying human dignity through humiliation.

385. The basis for the enforcement a criminal sentence and for the subjection to detainees to correctional labour measures is solely the enforceable sentence handed down by the court.

386. The reform and re-education measures used are adapted to the nature of the crime committed, its dangerousness to the community and the detainee's personality, behaviour and attitude to work.

387. The basic means of reform and re-education of detainees consist of the sentence enforcement rules, labour useful to the community, educational work and training.

388. Detention facilities where deprivation of freedom sentences are served are correctional labour colonies, prisons and educational labour colonies. Adult convicts are placed in correctional labour colonies or in prisons, while minors, namely persons up to the age of 18, are placed in educational labour colonies.

389. Correctional labour colonies are the main type of detention facility for adults sentenced to deprivation of freedom.

390. Correctional labour facilities are distinguished into general regime, strict regime and special regime correctional labour colonies, and correctional labour settlements are designed for those convicted for reckless acts constituting a crime.

391. Under article 67 of the Criminal Code:

“(1) Convicts serving deprivation of freedom sentences for premeditated crimes are placed as follows:

- (a) First-time offenders having perpetrated a limited- or average-gravity crime are assigned to general-regime correctional labour colonies;
- (b) First-time offenders having perpetrated a particularly grave or violent crime, male recidivists previously sentenced to prison for a premeditated crime, and female recidivists whose new offence has been a dangerous crime are assigned to strict-regime correctional labour colonies;
- (c) Especially dangerous recidivists and former death-row inmates whose sentence has been commuted to imprisonment are assigned to special-regime correctional labour colonies.

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<sup>4</sup> At province level



- (2) Convicts having turned 18 years old and given a sentence longer than eight years, and recidivists of that age whose new offence has been a particularly dangerous crime may serve up to five years of the sentence in a prison.
- (3) Minors sentenced to deprivation of freedom are assigned to educational labour colonies.
- (4) Persons sentenced to deprivation of freedom for reckless acts constituting a crime are assigned to correctional labour settlements.
- (5) Detainees may be reassigned to a facility of a different type by the court in accordance with criminal law.”

392. Detention facility inmates are grouped by sex, and minors are segregated from adults.

393. First-time offenders are detained separately from those having already served a deprivation-of-freedom sentence. In addition to women and minors, first-time offenders sentenced for crimes which are not grave, first-time serving more than three years for violent crimes, convicts having committed particularly grave crimes against the State, and particularly dangerous recidivists are also detained separately.

394. As a rule, inmates serve their entire sentence in the same type of establishment, namely a correctional labour colony, a prison or an educational labour colony. By order of the Ministry of Internal Affairs, detainees may be transferred from one colony to another of the same type of regime on the grounds of illness or of a substantial change in the volume or nature of the work carried out by the inmates.

395. Upon reaching 18 years of age, educational labour colony inmates may be transferred to a correctional labour colony in order to continue serving their sentence there. Any issue regarding such a transfer is resolved by the court. The transfer takes place on the basis of a reasoned decision taken by the head of the educational labour colony in consultation with the commission for minors’ affairs. Educational labour colony inmates who stay on in the colony after the age of 18 are subject to the rules, working conditions, nutrition standards and living conditions applicable to minors.

396. The basic requirements imposed by the rules governing detention centres consist of appropriate segregation of the inmates; constant watch over them to preclude the commission of further crimes or other anti-social behaviour; exact and consistent fulfilment of their duties; detention conditions adapted to the nature of the crime committed, its dangerousness to the community and the personality and behaviour of the inmate.

397. Detainees are kept in mass cells, wear regulation clothes, move in the area of the colony subject to the provisions of the regulations of the facility, and are subject to searches. Body searches are carried out by staff of the same sex as the detainees. The detainee’s correspondence is subject to censorship, and the packs, packages and parcels that they receive are subject to inspection.

398. Inmates of special-regime correctional labour colonies are detained in single cells and wear distinct standard clothes.

399. A strict regulation is implemented in each penitentiary.

400. The prisoners may hold no money, valuables or objects not permitted in the penitentiary.

401. The rules applicable to detainees must provide for strictly regulated activities around the clock, namely work, leisure, instruction and educational tasks. The daily schedule is established by the head of the facility in accordance with the facility’s regulations and announced to the inmates.

402. Convicts may submit proposals, statements or complaints to State organs, public organizations or officials. Such submissions are forwarded as appropriate and processed according to the procedure established by law. Complaints, statements and letters addressed to the public procurator are not subject to inspection and are forwarded within 24 hours from the time of their submission. The outcome of the review of such submissions is communicated to the detainees upon receipt.

403. Appropriate medical treatment and prevention centres are set up within detention facilities for curing and controlling infectious diseases among the detainees in fulfilment of their right to health services. Treatment, prevention, sanitation and epidemiological work in such facilities are carried out in accordance with health legislation.

404. Detainees have access to the necessary standard sanitary and hygienic facilities. They are provided with an individual bed and linen, and are issued clothes, underwear and footwear adapted to the season and the weather conditions.

405. Detainees are offered nutrition adequate for the normal vital functions of the organism. Nutrition standards vary with the climatic conditions prevailing in the area of the facility, the nature of the work carried out by the detainees and their involvement in that work. The food offered to detainees held in punitive or disciplinary confinement, a guardhouse cell or a single cell in general-, strict- or special-regime correctional labour colony meets reduced nutritional standards.

406. Pregnant women, minors and sick patients enjoy improved living conditions and enhanced nutrition standards; and, on the recommendation of the medical commission, may receive additional food packages and parcels.

407. Under article 82 of the Criminal Code, minors are defined as adolescents who, at the time of commission of the given offence, were older than 14 and under 18.

408. An underage offender may incur a penalty or be subjected to compulsory educational measures. In determining a penalty for a minor, due account is taken of the conditions under which he/she lives, his/her training and mental development, other special characteristics of his/her personality, the motives for the offence, and the influence of adults and other minors on the offender. The types of penalty that may be imposed on a minor are a fine, correctional labour or imprisonment.

409. The following categories of offenders serve prison sentences:

- Especially dangerous recidivists and persons who, after reaching the age of 18, committed especially dangerous crimes against the State or other violent crimes, and convicts sentenced to more than five years in prison;
- Persons transferred from correctional labour establishments as a result of systematically failing to comply with the requirements of the regime specified in the sentence.

Other detainees serving their sentence in prisons are those assigned to a prison under the facility-related work procedure established by the law. Prisons have two kinds of regime, the general and the strict regime.

410. General-regime inmates are first-time offenders, and persons transferred from a strict regime; while strict-regime inmates are those who already have served a prison sentence; those guilty of crimes committed in a detention facility; detainees transferred from a colony to serve their sentence in a prison; and inmates transferred to the strict regime as a punitive measure under the established procedure.

411. The period of detention under the strict regime ranges between two and six months. Pregnant women may not be detained under the strict regime.

412. Assignment to a prison regime or a change in regime is based on a reasoned decision of the prison director. The duration of placement under the strict regime is specified in the relevant decision and may be shortened, for early return to the general regime, only for medically attested health reasons.

413. Prisoners live in mass cells or, if necessary and based on a reasoned decision of the prison director and the consent of the public procurator, in a single cell. Prisoners are segregated according to the provisions of article 18 of the Correctional Labour Code. Moreover, general- and strict-regime prisoners are separated, and so are detainees being transferred from one facility to another and detainees assigned to facility-related work.

414. Under the Criminal Procedure Code, pretrial detention is a preventive measure taken against an indictee, a defendant or a suspect for a crime punishable by imprisonment. Pretrial detention provisions also apply to detainees who have been condemned but whose sentences are not yet enforceable.

415. Under the Criminal Procedure Code, pretrial detention legislation aims at establishing rules for the confinement, in pretrial detention facilities, of persons whose detention has been decided as a measure intended to prevent them from eluding legal proceedings, obstructing the establishment of the truth in a criminal case or engaging in a criminal activity; and at ensuring the enforcement of a sentence.

416. All persons deprived of freedom are entitled to humane treatment and respect for the inherent dignity of a human being.

417. The administration and medical staff of psychiatric hospitals must take action to create conditions favourable for the realization of the rights of the patients, including the following steps:

- Ensuring that all types of medical assistance are available to the patients
- Making accessible the text of the Mental Health Services Act, the regulations of the psychiatric hospital, the addresses and telephone numbers of Government, public and other bodies, organizations and officials to be contacted in case of violation of the patient's rights
- Facilitating the transmission of patients' correspondence, complaints and statements to legislative and executive power organs, public procurators' offices, courts and the patient's counsel
- In the event of non-voluntary hospitalization, ensuring, within 24 hours from the patient's arrival, the notification of relatives with whom he/she lives, his/her statutory representative or another person indicated by him/her
- Informing the patient's relatives, statutory representative or, in their absence, another person indicated by him/her of any changes in his/her health condition or any noteworthy incidents affecting it
- Ensuring the security of patients in the hospital, and having packages and parcels inspected
- Establishing and explaining to religious patients the rules which, out of deference to other patients, should be observed in the performance of religious rites or in inviting a clergyman; and contribute to the exercise of the right to freedom of thought for believers and atheists
- Discharging any other duties provided for in the Mental Health Services Act.

418. Establishments, organizations and individuals providing psychiatric assistance function under the authority of local Government executive bodies. Psychiatric or psychoneurological units belonging to public organizations of the health, social-security

and education sectors and to ministries or departments are managed by the bodies to which they belong. The activity of privately practicing physicians is controlled by the health authorities. The Procurator-General and his/her subordinate public procurators monitor compliance with the Mental Health Services Act. They are empowered to restore any violated rights and protect the legitimate interests of persons affected by mental disorders, and to bring charges against offenders in that regard.

## **Article 11**

419. Under article 23 of the Constitution, citizens may not be limited in their rights or deprived of the rights due to them or convicted or punished otherwise than in strict compliance with the law.

420. Non-fulfilment of contractual obligations entails civil liability according to the provisions of the Civil Code. Disputes related to such non-fulfilment are solved in accordance with civil law. A person unable to meet a contractual obligation incurs no criminal liability and may not be deprived of freedom.

421. Criminal law contains provisions on the criminality and penalty of an act and related issues. Under article 3 of the Criminal Code, a person may incur criminal liability only for acts having had harmful effects, with respect to which that person's fault has been established.

422. Under article 4 of the Criminal Code, criminal liability is based on the commission of an act bearing all characteristics of a crime, which are specified by criminal law.

423. Under article 10 of the Criminal Code, a crime consists in perpetrating an act dangerous for the community and prejudicial, or creating the threat of prejudice, to items protected by criminal law.

424. Civil law is based on the acknowledgment of the equality of the parties involved in the relations that it regulates, the inviolability of property, freedom of contract, the inadmissibility of arbitrary interference in private matters, the need for unfettered realization of civil rights, the guarantee of restoring violated rights and the judicial protection of rights.

425. Individuals and legal entities are free to contractually establish rights and accept obligations, and to enter any contractual clauses which are not incompatible with the law.

426. Under the Civil Code, civil rights may be restricted solely on the basis law with a view to protecting the morals, health, rights and legitimate interests of others, public safety and State security, and protecting the environment.

## **Article 12**

427. Under article 26 of the Constitution, every citizen has the right to move freely and choose his/her place of residence in the country. Restrictions on entry into individual areas and on movement in those areas may only be established by law.

428. Under article 47 of the Constitution, the exercise of the civil rights and freedoms enshrined in the Constitution may be temporarily suspended in a state of emergency or under martial law in a manner and within the limits established by the Constitution and the laws only.

429. Under the HIV/AIDS Prevention Act of 7 July 2001, citizens infected with HIV/AIDS enjoy the right to enter and leave the country, freedom of movement and freedom to choose their place of residence.

430. Foreign citizens infected with HIV/AIDS may freely enter the territory of Turkmenistan for a maximum period of three months. Upon detection of an infection, they are deported.

431. Under the Migration Act, every citizen has the inalienable right to leave and enter the country.

432. Turkmen citizens may leave the country through Immigration Department checkpoints open at the State border for international travel, upon presenting valid documents conferring the right to exit and the visas necessary for the destination countries, provided that a domestic regulatory legal instrument or an international agreement concluded by Turkmenistan does not otherwise provide.

433. The following documents confer the right to leave and enter the country and serve as identification documents for Turkmen citizens during their stay abroad:

- Turkmen passport for leaving and entering the country
- Diplomatic passport
- Official passport
- Seaman's passport.

These documents are the property of Turkmenistan and, if properly drawn up, allow exercising the right in question.

434. In the event of loss of the above documents by a Turkmen citizen, Turkmen diplomatic missions or consular offices abroad issue a personal identification document allowing entry into Turkmenistan.

435. In cases stipulated in international agreements concluded by Turkmenistan, documents other than the ones listed above may be used to leave the country.

436. Since 10 July 2008, the Immigration Department issues biometric passports for Turkmen citizens travelling abroad.

437. Foreign citizens enter and leave Turkmenistan through Immigration Department checkpoints open at the State border for international travel, upon presenting valid foreign passports which must be individual regardless of age. Stateless persons must present valid identification documents issued by the competent authorities of the country where they permanently reside and the appropriate visas. Other entry and exit procedures may be established for foreign citizens and stateless persons in accordance with international agreements concluded by Turkmenistan.

438. A foreign citizen or stateless person may not enter Turkmenistan:

- If he/she is subject to a restriction in that regard under Turkmen law
- If he/she lacks a valid visa, passport or equivalent document
- If the interests of national security or public policy so dictate
- If his/her entry may prejudice the health, rights or interests of Turkmen citizens or other residents
- If he/she blatantly violated Turkmen law during an earlier stay
- If he/she provided false information or used fake documents in applying for entry
- On any other basis provided for under the country's law.

Refusal to allow a foreign citizen or stateless person entry into the country may be appealed according to the procedure established by the law.

439. Visas for entry into Turkmenistan are issued to foreign citizens or stateless persons:
- At home: By the competent Immigration Department units
  - Abroad: By the Turkmen diplomatic missions and consular offices.
440. The categories and types of visas and their respective content and delivery are established by the President of Turkmenistan.
441. Granting a visa to enter Turkmenistan or extending the period of validity of such a visa for the various categories of foreign citizens or stateless persons is subject to the following requirements:
- For the staff of diplomatic missions, consular offices and other analogous foreign missions and international organization offices in Turkmenistan, foreign journalists accredited in Turkmenistan, and members of their families: Accreditation card issued by the Ministry of Foreign Affairs, and written application by the mission or office concerned
  - For foreign citizens or stateless persons travelling to Turkmenistan
  - For Turkmen organizations or permanent foreign missions: Written application by the receiving organization or mission
  - On official matters or on business: Written application by the receiving organization and appropriate documents certifying the official or business character of the trip
  - In order to work: Work permit issued by the Immigration Department
  - For private reasons: Standard invitation by a Turkmen citizen or written application by a foreign citizen or stateless person
  - As a permanent place of residence: Permit issued, upon application, by the Immigration Department on the basis of a decision by the visa issue and control committee
  - On a transit basis: Personal statement and travel document with a visa for the country to be entered next
  - As tourists: Personal statement or written application by the receiving tourist organization.
442. Foreign citizens or stateless persons transit through Turkmenistan according to the provisions of domestic law and the international agreements concluded by Turkmenistan; must comply with transit rules; follow the itinerary specified; and must get their transit visa extended if they wish to stay in the country longer than initially envisaged.
443. Foreign citizens may stay in Turkmenistan temporarily on the basis of their alien passports, which must be registered according to the procedure stipulated in the Migration Act. Such passport registration must occur at the place of destination within three working days from the time of arrival. The following persons are exempted from foreign passport registration:
- (a) Heads of State, Parliament and Government, members of State, parliamentary and Government delegations, and members of delegations of inter-State and international organizations, who have been invited by the President, Parliament or Council of Ministers of Turkmenistan; the personnel of such delegations; and the members of the families of the dignitaries in question;
  - (b) Members of the crews of foreign military vessels and aircraft arriving in accordance with the established procedure;

- (c) Members of the crews of foreign civilian sea- or river- vessels at Turkmen ports and port cities;
- (d) Members of the crews of international airlines and railway organizations;
- (e) Honorary Turkmen citizens.

444. Foreign citizens and stateless persons register at Immigration Department units, namely migration control checkpoints at the border and province-, region-<sup>5</sup> or city-level offices.

445. Foreign citizens and stateless persons may freely move about the national territory open to visits by aliens. An Immigration Department permit is required for entry into areas not open to such visits.

446. Foreign citizen and stateless persons may not leave Turkmenistan if:

- There are grounds for the initiation of criminal proceedings against them, until the case is closed
- They are convicted for an offence, until they serve or are released from serving the sentence
- Their departure from Turkmenistan is not in the interest of national security, until the circumstances impeding their departure cease to exist
- They fail to fulfil obligations imposed by a court of law, until the obligations are met
- There are circumstances under national law, or other circumstances, impeding their departure.

447. Under article 22 of the Civil Code, the place where an individual permanently or mainly resides is considered as his/her place of residence. The place of residence of minors up to age 14 and of wards is considered to be the place of residence of their parents, foster parents or guardians. The place of residence does not change, if a person leaves it for a specific period as part of an obligatory procedure or of public administration duties.

448. Under the Foreign Citizens Legal Status Act, foreign citizens may move on the national territory and select their place of residence in accordance with the procedure established by law. Restrictions may be imposed on movement and on the selection of the place of residence on the grounds of ensuring national security or protecting the rule of law, the health and morals of the population or the rights and legitimate interests of citizens and other residents.

449. The adoption of the Migration Act evidences Turkmenistan's consistent compliance with its international human rights obligations. In accordance with universally recognized standards of international law, the Act sets forth the procedure for entering and leaving the country to be followed by Turkmen citizens, foreign citizens and stateless persons and defines the legal relations within the country's migration processes and the scope of action taken by public organs regulating such processes.

450. Under the Passports Regulation adopted through Government decision No. 2843 of 25 October 1999, citizens must register at their permanent place of residence and at places of temporary stay. Registration at the place of residence is carried out by internal affairs bodies. Place of residence and place of temporary stay registration for Turkmen citizens is based on documents duly attesting that they have purchased a house or apartment or are renting or occupying living quarters as provided for by the law.

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<sup>5</sup> Or "etrapakh"

451. Registration at the place of residence is required of:
- Turkmen citizens permanently residing in the national territory
  - Turkmen citizens permanently residing abroad and staying temporarily in the national territory for more than six months
  - Turkmen citizens moving between two localities in Turkmenistan and staying temporarily at the new locality for more than six months
  - Foreign citizens and stateless persons permanently residing in Turkmenistan
  - Soldiers living off barracks.
452. To reside in Turkmenistan permanently or temporarily, foreign citizens and stateless persons need a residence permit.
453. Residence permits for foreign citizens are issued by the Immigration Department and are delivered according to a procedure determined by the President of Turkmenistan.
454. Foreign citizens present in Turkmenistan on any legal basis are considered as temporary residents and must register their foreign passports or equivalent documents and leave the country at the end of the authorized period of a stay.
455. Upon arrival at their place of destination in Turkmenistan, foreign citizens and stateless persons must register within three working days to be registered on the basis of the visas obtained, according to the procedure established in the Migration Act.
456. Extension of the period of validity of the visa or residence permit is required for extending the period of validity of the registration of foreign citizens.
457. The following identification documents are required for registration at the place of residence:
- For Turkmen passport-holding citizens residing permanently in the country: Passport
  - For children under 16 not living with their parents (or foster parents or guardians): Birth certificate
  - For Turkmen citizens permanently residing abroad and staying temporarily in Turkmenistan for more than six months: Passport or equivalent document
  - For Foreign citizens and stateless persons permanently residing in Turkmenistan: Permit of residence.
- Persons subject to registration must submit the necessary documents to the passport units of the local internal affairs bodies within seven days.
458. The registration of foreign citizens and stateless persons travelling to Turkmenistan under a simplified procedure for a stay not exceeding five days and of foreign citizens and stateless persons transiting through the country takes place only at migration control checkpoints at the State border.
459. Under article 11 of the Refugees Act of 12 June 1997, a person granted refugee status enjoys all rights and freedoms recognized to Turkmen citizens.
460. Under the same article, a person granted refugee status enjoys the right to:
- Choose a place of residence in a list of proposed inhabited localities
  - Choose to reside with his/her relatives, if they agree
  - Be employed or self-employed and acquire property according to legal provisions on aliens and stateless persons



- Education
- Draw benefit from cultural achievements
- Freedom of worship
- Obtain, with assistance of the competent bodies, information on relatives and property left in his country
- Take out of Turkmenistan any property that he/she brought into the country and any property acquired in another country which he/she has a right to enter in order to take up residence
- Return voluntarily to the country where he resided previously or travel to any third country
- Judicial protection from infringements affecting his/her honour, dignity, life, health, personal freedom, home, and property-related and non-property rights.

Under article 13 of the Act, State and local-Government must provide any refugee with:

- The list, approved by the Council of Ministers, of inhabited localities recommended for permanent residence; and information on living conditions and employment opportunities there
- Temporary living quarters, through the competent body at his/her place of permanent residence
- Assistance, through his/her membership of a housing cooperative, in building a private home, including acquisition of the terrain and building materials
- Assistance in finding a job, taking into account the level of employment in the given area, through, if necessary, vocational training (retraining) and skill enhancement
- A place in social protection establishments, giving priority to aged or disabled refugees living alone and in need of care
- Assistance regarding the placement of his/her children in public or municipal pre-school and general education establishments;
- Medical or pharmaceutical benefits in accordance with the law
- Assistance in returning to his/her previous country of permanent residence.

461. Organizations and foreign permanent missions receiving foreign citizens or stateless persons in Turkmenistan file a standard visa application with the Immigration Department.

462. The Ministry of Foreign Affairs keeps a record of foreign citizens enjoying a special status and international protection, who belong to the following categories:

- (a) Heads of foreign diplomatic missions and consular offices, diplomatic staff, consular civil servants, administrative, technical and service personnel of diplomatic missions and consular offices, the personnel of military- and commercial-attaché units, and their spouses, children and parents
- (b) Foreign affairs staff of other countries, who are present in Turkmenistan on official business and hold diplomatic or special passports, and the members of their families
- (c) International organization agents present in Turkmenistan on official business, the staff of delegations of such organizations in the country, national representatives to international organizations based in the country, who, in accordance with the basic instruments governing such organizations or respective

international agreements, enjoy diplomatic privileges and immunities, and the members of their families

(d) Persons visiting Turkmenistan on United Nations passports for more than five days

(e) Foreign journalists accredited to the Ministry of Foreign Affairs, and the members of their families.

463. The Ministry of Foreign Affairs issues accreditation cards to the persons registered, or enters the registration details in their passport. Upon the request of the diplomatic missions, consular offices, international organizations and other receiving organizations, the Ministry of Foreign Affairs proceeds, as appropriate, with the registration of the passports of foreign dignitaries and public servants on business in Turkmenistan, and of the members of their families, thereby obviating the need for them to register with the Immigration Department.

464. A residence permit, namely a document entitling foreign citizens or stateless persons to reside in Turkmenistan, may be temporary or permanent. The issue or refusal of a residence permit is based on a decision of the President of Turkmenistan.

465. The Immigration Department and the Ministry of Foreign Affairs inform the applicant for residence of the relevant decision of the President of Turkmenistan within 10 days from its adoption.

466. Residence permits are drawn up and issued to foreign citizens and stateless persons living in Turkmenistan by Registration Service units. Applications for residence may be submitted by legally capable foreign citizens and stateless persons 18 years of age or older.

467. A visa and a residence permit for Turkmenistan are denied where the residence of the foreign citizen concerned in the country is contrary to the interests of national security and public policy or may be morally harmful to the population.

468. Foreign citizens may move on the national territory and select their place of residence in accordance with the procedure established by law. Restrictions on movement and the selection of the place of residence are possible on the grounds of ensuring national security or protecting the rule of law, the health and morals of the population or the rights and legitimate interests of citizens and other residents.

469. Under article 21 of the Foreign Citizens Legal Status Act, foreign citizens and stateless persons are guaranteed the right to appeal to courts of law, other public authorities and the diplomatic missions and consular offices of their countries for the protection of their individual, property and other rights. Foreign citizens enjoy in courts of law the same procedural rights as Turkmen citizens.

470. Under article 8 of the Constitution, Turkmenistan extends the right of asylum to foreign citizens and stateless persons according to the universally recognized standards of international law and the procedure established by law.

471. The Refugees Act establishes the procedure and requirements for recognizing a person as a refugee, refugee legal status, and economic and social safeguards for the protection of the rights of refugees.

472. Under article 1 of the Act, a refugee is a person present in Turkmenistan out of a well-founded fear of suffering persecution based on race, religion, ethnic background, membership of a specific social group or political views, and is unable to request his country's protection or does not wish to seek such protection as a result of the fear in question; or who, having no specific citizenship and, after leaving for similar reasons his/her previous country of residence is unable to return there or does not wish to do so as a result of such fear.

473. In order to obtain refugee status, a person must submit a written application to the

Immigration Department. Refugee status applications must be registered on the day of their submission.

474. A person forced to cross Turkmenistan's borders illegally in order to obtain refugee status submits an application for such status through the officer in charge of the appropriate Border Service unit must transmit that application to the Immigration Department without delay. The Border Service must inform the applicant about the procedure and prerequisites for granting refugee status of on the turning persons. Thanks to the implementation of the 1951 Convention relating to the Status of Refugees, ratified by Turkmenistan in 1997, and of the Refugees Act and the Turkmen Government's cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) mission, Turkmen citizenship and residence permits have been granted on an unprecedented scale, namely to more than 16 thousand forced migrants and refugees from neighbouring Tajikistan and Afghanistan. Under a Presidential Decree and a Presidential Decision dated 4 August 2005, 13,245 refugees living in Turkmenistan and a further 3,053 refugees, respectively, have obtained Turkmen citizenship and a permanent residence permit.

### Article 13

475. The Registration Service orders foreign citizens and stateless persons having exceeded the time limit for staying in Turkmenistan or whose visa or residence permit has been annulled to leave the country. The persons in question must then leave the territory by the date indicated on the departure order.

476. In the event of non-compliance with the order, foreign citizens and stateless persons are subject to administrative expulsion from the country. Foreign citizens and stateless person are subject to administrative expulsion if:

- Their activities run counter to national security or public policy
- Their expulsion is necessary for the protection of the health, morals, rights and legitimate interests of the population
- They have repeatedly or blatantly violated domestic law
- The administrative expulsion of foreign s or stateless persons is carried out by Immigration Department and law-enforcement agents.

477. The costs of administrative expulsion are borne by the:

- Expelled foreign citizen or stateless person
- Receiving organization or private individual
- Authorities (in exceptional cases).

478. Under article 15 of the Migration Act, a foreign citizen or stateless person may be denied a visa or a residence permit for Turkmenistan if he/she:

- Has committed a crime against humanity
- Has been convicted for a grave or particularly grave crime
- Is the subject of criminal proceedings (until the case is closed)
- By residing in the country, may imperil national security or public policy or harm the population's morals
- Has contracted HIV/AIDS or a venereal disease or suffers from addiction or another condition included by the Ministry of Health and the Medical Industry in the list of ailments harmful to public health

- In applying for the visa or residence permit, has deliberately provided false information
- Is subject to an earlier restriction regarding his/her entry into the country (until the restriction expires)
- Has been administratively expelled from Turkmenistan (until the administrative expulsion expires)
- Is illegally present in Turkmenistan or has assisted another foreign citizen or stateless person to enter Turkmen territory illegally
- Is a member of or linked to a terrorist, anti-State, extremist or other criminal organization.

479. The applicant is notified of the refusal of a visa or residence permit within three days from the adoption of the relevant decision.

480. Under article 16 of the Migration Act, the residence permit issued to a foreign citizen or stateless person in Turkmenistan may be cancelled if he/she:

- When applying for the residence permit, provided false information
- Has been convicted for a grave or particularly grave crime
- Has committed acts imperilling national security or public policy or harm the population's morals
- Is a member of or linked to a terrorist, anti-State, extremist or other criminal organization
- Has entered the military or other Government services of another State, except in the cases provided for in inter-State agreements concluded by Turkmenistan
- Appears in the records of the drug-monitoring authorities
- Has entered into a marriage of convenience with a Turkmen citizen in order to obtain a residence permit for Turkmenistan
- Given up the employment, on the basis which the residence permit was obtained
- And his/her Turkmen spouse divorce within five years from entering into a marriage having served as a basis for the residence permit, and they have no children
- Has been continuously absent abroad for a year, unless he/she has had valid and documented reasons for doing so.

481. Under article 17 of the Migration Act, a visa may be cancelled and the validity of a residence permit for Turkmenistan shortened for a foreign citizen or stateless person, if he/she:

- (a) Has violated the rules governing his/her presence in the country;
- (b) Has allowed Turkmen legislation to be violated;
- (c) Poses a danger to society or leads an immoral life;
- (d) No longer has any grounds for further residing in the country;
- (e) Is subject to other relevant provisions of Turkmen law.

482. A foreign citizen's or stateless person's visa may be cancelled and the period of his/her residence in Turkmenistan shortened at the request of the receiving entity or of Government bodies. The decision for such cancellation and interruption is taken by the Immigration Department.

483. Under article 8 of the Constitution, foreign citizens and stateless persons enjoy the rights and freedoms and bear the responsibilities of a Turkmen citizen, in accordance with the law and Turkmenistan's international agreements.

#### Article 14

484. Under article 4 of the Constitution, State authority is based on the principle of the separation of legislative, executive and judicial power, which operate independently, counterbalancing each other.

485. Under article 99 of the Constitution, judicial power in Turkmenistan resides solely in the courts. Under article 100 of the Constitution, it is exercised by the Supreme Court and other courts, provided for by law. The establishment of extraordinary tribunals and other structures having the powers of a court is not allowed.

486. The function of the judiciary is to uphold civil rights and freedoms and the legally protected interests of the State and society. In line with the precepts of the Constitution, a judicial and legal reform currently in progress includes comprehensive legislative measures aimed at ensuring the judicial protection and rigorous implementation of civil rights and freedoms in accordance with the universally recognized standards and principles of international law

487. The initial stage of the reform has consisted in the adoption of the Judicial System and Status of Judges Act of 29 May 1991, which established the principle of the independence of judges at all court levels.

488. An important stage of the reform has been the adoption of the Courts of Law Act of 15 August 2009, which consolidated all earlier legislation still in force regarding the judiciary, namely the Judicial System and Status of Judges Act; the Presidential Decrees of 8 September 1998 adopting Regulations on "Disciplinary liability, recall and early retirement of judges", "Procedures for convening and conducting judges' conferences" and "Judges' assessment boards"; and the Presidential Decisions of 8 September 1998 on "Certification of the qualification of judges" and "Introduction of qualification courses for judges".

489. The Courts of Law Act established the court system; laid down procedures for determining the powers of judges; developed constitutional provisions on the judiciary and its autonomy and independence from the legislative and the executive and on the inviolability of judges; confirmed the equality of all before the law and in court, the transparency of court hearings, and the participation of citizens in the administration of justice in the capacity of lay judges; and established the universal enforceability of court decisions, with no exception for any governmental or non-governmental bodies, officials, public associations, individuals or legal entities.

490. The improvement of the foundations of the national legal system as the basis for implementing any plans and programmes is crucial to the State's and society's further development and to the strengthening of democracy and the rule of law. The President of Turkmenistan, addressing the Parliament at its first meeting of the fourth parliamentary session in January 2009<sup>6</sup>, stressed this task and underscored the importance of aligning domestic law with international treaty provisions.

491. Turkmenistan's new Criminal Procedure was adopted by an Act of 18 April 2009 and entered into force on 1 July 2009, replacing the earlier Criminal Procedure Code of Turkmen SSR, which had been adopted by a Turkmen SSR Act of 22 December 1961.

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<sup>6</sup> Parliamentary elections took place on 14 December 2008

492. The new Criminal Procedure Code is the basis for criminal procedure law, which establishes and regulates the rules for criminal legal proceedings in the country. The adoption of the new code is primarily related to the progressive social and political reforms at the national scale and is expected to ensure the effective protection of civil rights and freedoms and to contribute to further enhancing criminal procedure standards in legal proceedings, on the basis of democratic values.

493. One of the innovations contained in the new Criminal Procedure Code (in article 147) is the introduction of the guarantee as a prosecution tool. Other notable features of the new code are the possibility of action against persons enjoying privileges and immunity in criminal matters (under chapter 50), and the provision for assisting, in criminal cases, investigation conducted by organs and courts of States, with which Turkmenistan has concluded international or bilateral legal cooperation agreements (under chapter 52). The previous Criminal Procedure Code did not contain such provisions.

494. Under article 189 of the Criminal Code, judges are independent, are subject only to the law, and are governed by inner conviction. Interference in the work of a judge from any quarter is inadmissible and punishable by law. The inviolability of judges is guaranteed by law.

495. Judges are appointed by the President of Turkmenistan for five years. On expiration of the mandate, a judge may be released from his/her duties only on the basis stipulated by the law. If a judge's mandate elapses while he/she hears a case, the mandate is extended to the end of the case.

496. Persons eligible for designation as regional or urban court judges are citizens of at least 25 years of age (or 22 years in the case of administrative and executive courts), with higher education in law and at least two years of specialized experience in legal work, and have passed a qualifying examination.

497. Eligible for designation as higher court judges are citizens with higher education in law and at least five years of specialized juridical experience, including, as a rule, at least two years as a judge.

498. The court system consists of regional and urban courts of first instance, which hear criminal, civil and administrative cases; province courts and the Ashkhabad City court for province-level matters, which hear criminal and civil cases at the first-instance, appeal and supervisory authority levels, and the Supreme Court, which hears cases at the first-instance, appeal and supervisory authority levels. The Supreme Court, among other tasks assigned to it by the law, is the highest judicial body, empowered to monitor judicial activity in all of the country's courts. It studies and standardizes judicial practice, analyzes judicial statistics, guides courts through clarifications on law implementation issues in the course of hearings, monitors the courts' compliance with guidelines provided by the Plenum of the Supreme Court, resolves court jurisdiction issues in view of Turkmenistan's international agreements, draws up proposals regarding the organization of courts, ensures the selection and training of candidates for judgeships and the enhancement of the capacities of the staff members of the judiciary, develops and carries out measures for strengthening the independence of judges, and organizes logistic support and ensures appropriate conditions for the activity of the courts.

499. All persons residing in Turkmenistan are equal before the court and are entitled to due process and a public hearing.

500. Under article 253 of the Criminal Procedure Code, a defendant may during a court session:

- Challenge a judge, a lay judge, the secretary of the session, the public procurator, an expert or a translator

- File a petition and state his/her views on petitions filed by the complainant, another defendant, his/her counsel or statutory representative, or the public procurator
- Request the court to have evidence submitted entered in the record, subpoena a witness, designate an expert, ensure the disclosure of existing relevant evidence, and demand further evidence
- Question a witness, an expert, another defendant, the complainant or a civil claimant or defendant
- Participate in the inspection of the scene of the incident and of material evidence and documents, and in any experimental testimony procedure
- Provide at any moment testimony regarding the circumstances of the matter examined by the court
- Participate in the judicial debate in the absence of a counsel.

501. Under article 337 of the Criminal Procedure Code, a condemned person, his her counsel or statutory representative, the complainant or his/her representative may appeal the court judgement in cassation according to the procedure established by law, while the civil claimant or defendant or their representatives may appeal the part of the judgement, which relates to the civil claim.

502. A person who has been acquitted may challenge the grounds or justification for the decision.

503. A court judgement may be appealed at a higher judicial level as part of a supervision procedure.

504. Under the law, a minor is a person under 18.

505. Under article 21 of the Criminal Code, persons 16 years of age or older at the time of an offence are criminally liable.

506. For certain types of crimes, such as premeditated murder, deliberate serious harm to health, deliberate harm of average gravity to health, rape, theft, robbery, brigandry, extortion, vehicle theft, deliberate destruction or degradation of property by arson, explosion or other dangerous means, theft or extortion of weapons, ammunition, explosives or explosive devices, illegal production, processing, acquisition, storage, transportation or forwarding of narcotic drugs or psychotropic substances for the purpose of sale, and theft or extortion of narcotic drugs or psychotropic substances, criminal liability begins at age 14.

507. There are no special courts for minors in Turkmenistan. Section V of the Criminal Code deals in particular with criminal liability and punishment in the case of minors.

508. Under article 11 of the Courts of Law Act, every one is presumed innocent until his/her guilt in relation to the commission of an offence is proven by due process of law and established in an enforceable sentence handed down by a court.

509. Under article 14 of the Courts of Law Act, the existing courts are the Supreme Court, the Arbitration Court, province courts, municipal courts with province-wide powers, regional courts and urban courts with region-wide powers. Courts are created or abolished by the President of Turkmenistan, save for the Supreme Court, whose creation or abolition is decided by the Parliament.

510. Under article 15 of the Courts of Law Act, the number of judges of the Arbitration Court and of the judges and lay judges of all courts, including regional, urban and province courts and the Ashkhabad City court, is proposed by the Chairman of the Supreme Court and established by the President of Turkmenistan.

511. Under articles 50-58 of the Courts of Law Act, the independence of judges and lay judges is ensured through the legal procedure for the designation of judges and for the election, designation and dismissal of lay judges; the inviolability of judges and lay judges; strict judicial procedures for the administration of justice; the confidentiality and prohibition to divulge the contents of deliberations among judges in arriving at a court judgement; liability for contempt of court or interference in the examination of specific cases; creation of the organizational and technical conditions necessary for the functioning of the courts; and measures ensuring the judges' material and social protection.

512. The judges of the province, Ashkhabad City, regional and urban courts, are proposed by the Chairman of the Supreme Court and appointed by the President of Turkmenistan; and so are the Chairman and judges of the Court of Arbitration and the Supreme Court justices, including the first deputy and the other deputies of the Chairman of the Supreme Court. The Chairman of the Supreme Court is appointed by the President of Turkmenistan in agreement with the Parliament.

513. Under article 61 the Courts of Law Act, upon expiration of their mandates, barring the circumstances referred to in article 73 of the Act and depending on the outcome of the certification of qualification by the judges' assessment boards, judges are considered for reappointment.

514. Under article 79 of the Criminal Procedure Code, a suspect has the right to have knowledge of any record regarding any decision to initiate criminal proceedings against him/her, detain him/her or subject him/her to any other preventive measure. Under article 80 of the same code, the indictee has the right to be informed of the charges brought and of the indictment; have his/her place of detention communicated to his/her family, close relatives or colleagues at work; participate in investigations undertaken at his/her own or his/her counsel's or statutory representative's request; and have knowledge of and enter observations on the records of investigation or other proceedings-related acts launched at his/her own or his/her counsel's or statutory representative's request. Under article 247 of the code, charges must be filed within two days after the court order or indictment and in any case on the day of the appearance or presentation of the indictee. The time limit for filing charges is lifted, if the indictee eludes the proceedings. After ascertaining the identity of the indictee, the investigator formally presents and states the substance of the charges to the indictee and a note is entered to that effect in the document. The investigator also informs the indictee of his/her right and obligations under article 80 of the code, and a record of the proceedings is drawn up.

515. The Criminal Procedure Code stipulates the length of the period of investigation in article 237, of the preliminary inquiry in article 230 and of the examination of the case as from its arrival at the court in article 349. These provisions aim at ensuring that there is no undue delay in judging the indictee.

516. Under article 436 of the Criminal Procedure Code, the defendant, his/her counsel or statutory representative, the complainant or his/her representative may appeal a court judgement under the relevant procedure.

517. Under article 354 of the Criminal Procedure Code, the indictee has the right to participate in the first instance hearing, in which, under article 353 of the code, his presence is actually required. Under article 81 of the code, the counsel is appointed by the indictee, his/her statutory representative or others on the instructions or by consent of the indictee. Under article 83 of the code, the indictee may dismiss the counsel at any time during the proceedings. Such dismissal may occur solely on the initiative of the indictee. However, the presence of a counsel is required in certain types of cases and, under article 82 of the code, the investigator or the court must ensure a counsel's presence at the proceedings.

518. Under article 108 of the Constitution, the right to professional legal assistance is recognized at any stage of legal proceedings; and such assistance is provided to citizens and organizations by lawyers, and other individuals and organizations. Under article 200 of the



Criminal Procedure Code, the head of the college of lawyers or the executive committee of the Bar may, according to the procedure stipulated by law, fully or partially exempt the suspect, indictee, or defendant from the payment of fees to the counsel, whose remuneration in that case is provided by the executive committee of the Bar.

519. Under article 354 of the Criminal Procedure Code, in connection with court proceedings a defendant may:

- Participate in the first instance hearing
- Use the services of a counsel
- Challenge a judge, a lay judge, the secretary of the session, the public procurator, an expert or a translator
- File a petition and state his/her views on petitions filed by other participants in the proceedings
- Request the court to have evidence submitted entered in the record, subpoena a witness, designate an expert, ensure the disclosure of existing relevant evidence, and demand further evidence
- Question persons interrogated with regard to the case
- Participate in the inspection of the scene of the incident and of material evidence and documents, and in any experimental testimony procedure
- Provide at any moment testimony regarding the circumstances of the matter examined by the court
- Participate in the judicial debate, if the public procurator does so, in the absence of a counsel
- Make a final statement to the court after the end of the judicial debate
- Appeal against decisions of the court or the judge.

520. Under article 14 of the Constitution, Turkmen is the official language of Turkmenistan; and the use of their native language is guaranteed to all citizens of Turkmenistan. Under article 28 of the Criminal Procedure Code, the investigation and court documents are provided to the indictee in accordance with the legal procedure, translated in his/her native language or in another language, which he/she can effectively use. Judicial costs related to translation are covered by the bodies conducting the investigation or preliminary inquiry and by the court.

521. In judicial cases involving minors, the court may request enterprises, establishments or organizations, in which the minor concerned was trained or worked, commissions and inspectorates for minors' affaires, and any other organization, as appropriate, to be represented at the hearings. Under the law currently in force, a minor is a person under 18.

522. Under articles 436 and 443 of the Criminal Procedure Code, a sentenced person has the right to request setting aside a judgement, and the right to appeal. Under the first of these articles, the relevant procedure may be initiated by a defendant, an exculpated person, their counsel and statutory representative, the complainant or his/her counsel. A civil claimant or civil defendant or their representatives may challenge the part of a judgement, which is related to the civil claim. A person who has been acquitted may challenge the grounds or justification for the decision. Moreover, a court judgement may be appealed at a higher judicial level as part of a supervision procedure.

523. TNIDIPC and the German Development Cooperation Corporation organize special seminars for the study of foreign judicial practice regarding issues related to civil, family and inheritance law, solicitors' activities, and professional ethics in judicial matters. Similar activities are carried out in cooperation with the OSCE centre in Ashkhabad.

524. The new Criminal Procedure Code refers in detail to the role of the counsel in criminal proceedings, in which the counsel participates under article 81 of the code.

525. Lawyers and, in cases involving members of public associations, representatives of such entities, close relatives and other representatives may act as counsel, defending the legitimate interests of a suspect, indictee, defendant or victim.

526. The same counsel may not concurrently defend two or more persons who are suspect, indictee or defendant, if the interests of one of these persons are incompatible with the interests of another.

527. Under article 82 of the Criminal Procedure Code, participation of a counsel in investigation, preliminary-inquiry or judicial proceedings is obligatory in the following cases:

- Cases in which such participation is requested by the suspect, indictee or the defendant
- Cases involving minors
- Cases involving dumb, deaf, blind or other persons who, because of a physical or mental disability, are unable to realize their right to defence on their own
- A procedure for deciding whether to subject an indictee to an in-patient psychiatric examination
- Cases involving persons who unable to use effectively the language use in the legal proceedings, or who are illiterate
- Cases involving persons having conflicting defence interests, at least one of whom has a counsel
- Cases in which the investigator, inspector, public procurator, court or judge considers a counsel's participation to be necessary, and which involve suspects or indictees who were under age at the time of the offence but became adults during the investigation, preliminary inquiry or trial, or persons unable to exercise their right to defence on their own, other than those referred to in the third subparagraph above
- Cases involving a suspect, indictee or defendant in relation to a particularly grave crime
- Cases involving the detention of an indictee as a preventive measure
- Cases involving the implementation of compulsory measures of a medical character
- Court hearings in which a public procurator participates.

528. Under article 83 of the code, a suspect, indictee or defendant may waive legal counsel at any time during the proceedings. Such a waiver may occur solely on the initiative of the suspect, indictee or defendant and does not impede the continued participation of the public procurator or of the counsel of other suspects, indictees or defendants in the proceedings.

529. Article 84 of the Criminal Procedure Code regulates the rights and obligations of a counsel. A counsel must use all legal means and methods of defence, shedding light on circumstances which may exculpate or limit the liability of the suspect, indictee or defendant, whom the counsel must provide with the required legal assistance.

530. As soon as he/she has access to the case file, the counsel is entitled to:
- (a) Be present when the suspect or indictee is questioned or charged and at other investigation stages calling for his/her participation;
  - (b) Have knowledge of the detention record and any decision to take a preventive measure;
  - (c) Participate in court hearings;
  - (d) Submit evidence;
  - (e) File a petition;
  - (f) File challenges;
  - (g) File complaints against actions or decisions by the official treating the case, investigator, public procurator or court.
531. As soon as he/she has access to the case file, the counsel may hold meetings with the arrested or detained suspect, indictee or defendant, in private and without any restriction as to the number or duration of the meetings.
532. The counsel has a right to have knowledge of all elements in the file and to copy any necessary information contained therein. Present at the various stages of the investigation, the counsel may question the persons interrogated, and note in the record of investigation any observations regarding a fault or incomplete compliance with the rules.
533. Having accepted a suspect, indictee or defendant as a client, a counsel may not renounce on that task; nor may/he she act contrary to the interests of his/her client or obstruct the realization of the client's rights.
534. Without instructions from his/her client, may not take any of the following legal steps:
- Assert the client's guilt with respect to the offence
  - Plead for his/her client's reconciliation with the victim
  - Recognize a civil claim
  - Refute complaints filed by his/her client
  - Refute complaints filed by the client with regard to a condemnatory court judgement.
535. The counsel is obliged:
- (a) To appear when summoned by an organ conducting criminal proceedings, in order to defend the rights and legitimate interests of the suspect or indictee and provide him/her with legal assistance;
  - (b) To appear when legally instructed to do so by an organ conducting criminal proceedings;
  - (c) Not to reveal information obtained in the course of providing legal assistance, the preliminary inquiry or court hearings held in private.
536. Legal assistance is actually available to all citizens, regardless of their financial situation. Accordingly, three legal assistance centres, namely for the Azatlyk, Niyazov and Kopet Dagh regions, operate in Ashkhabad. The roster of lawyers on duty, established on a monthly basis and approved by the chairman of the executive committee of the Ashkhabad Bar, provides for two lawyers available daily. They receive citizens; provide advice orally or in writing; draw up statements, complaints and petitions; participate in inquiry proceedings; and defend the interests of citizens in court.

537. Under article 14 (2) of the Regulation on Lawyers, a counsel may request the documents and information necessary for providing legal assistance.

538. In providing legal assistance, a counsel:

- Offers explanations and advice on legal issues, and oral or written information about the law
- Draws up statements, complaints and other legal documents
- Represents clients in court, arbitration proceedings and various public bodies dealing with civil matters and cases involving administrative offences
- In criminal cases, participates in preliminary inquiries and in court proceedings to defend and represent victims, civil claimants and civil defenders.

## **Article 15**

539. Under article 46 of the Constitution, a law which aggravates the situation of a citizen may not have retroactive effect. No one may be held responsible for actions which, at the time of their commission, were not recognized by law as an offence.

540. Under article 5 of the Criminal Code, the criminality and penalty of an act are determined on the basis of the laws in force when the act was carried out.

541. Under article 6 of the Criminal Code, a law which improves an offender's situation, including by eliminating his/her criminal liability and reducing the applicable penalty, has retroactive effect, namely applies to those having committed the offence in question before the entry of that law into force, including those serving a sentence or those having served the sentence but having a criminal record as a result. A law, which establishes the criminality of an act, amplifies the applicable penalty or otherwise worsens a person's situation, may not be enforced retroactively.

542. If a new law reduces the penalty of an offence while the offender serves a sentence for that offence, the penalty imposed on the offender may be reduced in accordance within the limits set by the new law.

## **Article 16**

543. Under articles 3 and 18 Constitution, the society and State of Turkmenistan place the highest value on the person. No one may deprive a person of any rights or freedoms or restrict his/her rights or freedoms unless the Constitution or the law otherwise provide.

544. Under article 24 of the Civil Code, an individual may not be deprived of legal capacity. A full or partial waiver of an individual's legal capacity or legal competence and any other acts aimed at restricting such capacity or competence are null and void.

## **Article 17**

545. Every Turkmen citizen has a right to a home. No one may enter or otherwise infringe the inviolability of a home against the will of the inhabitants or illegally. Every one is entitled to protection from unlawful interference with his/her privacy, from violations of the confidentiality of correspondence, telephone conversations and other types of information, and attacks on his/her honour and reputation. Any violator of such rights of a citizen is subject to criminal liability under, respectively, articles 146, 147 and 148 of the Criminal Code. Protection of the home against encroachments is a human and civil right. No one may be deprived of his/her home otherwise than on grounds established by law.

546. The infringement of equal civil rights and of the inviolability of private life and the home; the illegal collection and transmission of information on a person's private life; the violation of the confidentiality of correspondence, of telephone conversations, of mailed, cabled or other information and of adoption; and attacks on a person's honour or dignity through the spreading of false information that is humiliating or tarnishes his/her reputation may incur criminal liability under articles 132, 133, 145-148, 157 and 177 of the Criminal Code.

547. The Civil Code provides for significant safeguards against the violation of individual non-property rights. A person may bring action against anyone who calumniously attacks his/her honour, dignity or business reputation. Posthumous protection of a person's honour and dignity is ensured at the request of those affected. Any dissemination of calumnious information detrimental to honour, dignity or business reputation via the media must be retracted through the same media. No one may publish and disseminate the image of any person without that person's consent.

548. Under articles 15-18 of the Civil Code, a person is entitled to protection of his/her privacy, including the confidentiality of correspondence, diaries, notes and memos; his/her private life, birth, adoption, medical or legal record and financial placements.

549. Under articles 1027-1043 of the Civil Code, the victim of physical or psychological prejudice resulting from infringement of his/her individual rights and freedoms may claim damages, including through court action. Under article 1040 (3) of the Civil Code, investigation, public-prosecution and judicial organs may incur liability for damage (including to protected intangible individual interests) caused by illegal acts.

550. Where, in the course of a criminal investigation, it is reasonable to presume that the weapon used in a crime, a wanted person, a corpse or objects or valuables which may be significant to the inquiry are to be found in someone's home, the official or organ conducting the investigation carries out a search in order to locate and retrieve them. Body searches are carried out on analogous grounds.

551. Under article 270 of the Criminal Procedure Code, a search is undertaken on the basis of a reasoned decision by the investigator and solely with a mandate issued by the public procurator, his/her deputy or the court. In urgent cases, the search may take place without seeking the public procurator's approval. In that event, the public procurator is informed of the search within the day.

552. A search is undertaken on the basis of evidence sufficient to justify the supposition that the crime weapon, criminally acquired objects or valuables, or other objects or documents which may be significant to the inquiry are kept in a specific facility, at a given location or in a home; and may proceed only on the basis of a reasoned decision by the investigator and with a mandate issued by the public procurator or his/her deputy.

553. The search of a home and the retrieval of the objects necessary for the criminal investigation must take place in the presence of the person or adult members of the family living there. If their presence is impossible, housing management or local Government representatives are requested to attend.

554. Under article 275 and 276 of the Criminal Procedure Code, in the course of the search the investigator must retrieve only objects and documents which may be related to the case.

555. Under article 274 of the Criminal Procedure Code, in the course of the search of premises and the retrieval of objects necessary to the criminal investigation, or any body search, the investigator must ensure that no circumstances unrelated to the case and linked to the private life of the persons subjected to the search are revealed.

556. Under article 272 of the Criminal Procedure Code, body searches are carried out by a person, and in the presence of witnesses, of the same sex as the one searched, according to the rules provided for.

557. Correspondence may be intercepted in post-and-telegraph establishments and retrieved only in connection with a criminal case under investigation and with a mandate issued by the public procurator or with a court order.

558. Under article 281 of the Criminal Procedure Code, intercepted correspondence or mailed items are inspected, withdrawn and copied by the official treating the case or by the inspector in the establishment, in the presence of witnesses. In accordance with the law, the legality and well-foundedness of searches and correspondence interception are monitored by the public procurator's office, which may issue or refuse to issue a mandate. Such monitoring is ensured during the preliminary inquiry, the drawing up of the conclusion to indict, the review of complaints and statements by citizens and other supervisory measures. The legality and well-foundedness of interference with privacy is subject to verification by the court during the hearing of criminal cases and the review of statements by citizens in that framework. Moreover, intra-departmental control is conducted in the law-enforcement agencies concerned.

559. If violations are observed in the form of interference with the inviolability of the home and the confidentiality of correspondence, telegrams and other communications and telephone conversations, or in the form of illegal collection of personal information and data, the public procurator's office initiates disciplinary proceedings against those who allowed such violations.

560. If there is evidence of criminal action during investigation and preliminary inquiry, the officials concerned are held accountable under criminal law.

## **Article 18**

561. Under article 28 of the Constitution, Turkmen citizens have a right to freedom of opinion and expression, and to receiving information, save for State or other secrets protected by law.

562. Under article 12 of the Constitution, the State guarantees freedom of religion and worship, and equality before the law. Religious organizations are separate from the State, may not interfere in State affairs or fulfil State functions. The public education system is separate from religious organizations and is secular. Every person independently determines his/her attitude towards religion, has the right, individually or jointly with others, to profess any religion or none, to express and disseminate views related to the attitude towards religion, and to participate in religious observances, rituals, and ceremonies.

563. Under article 3 of the Freedom of Religion and Religious Organizations Act, freedom of religion is the citizens' guaranteed constitutional right to profess any religion or none, to express and disseminate views related to the attitude towards religion, and to participate in religious observances, rituals, and ceremonies.

564. No coercion may be applied to a person in connection with determining his/her attitude to religion, and deciding to practise or not to practise a religion, to participate or not to participate in acts of worship or religious rites and ceremonies, or to receive religious education.

565. It is prohibited to recruit minors into religious organizations or to instruct them in a religious faith against their will or against the will of their parents or persons in loco parentis.

566. Under article 4 of the Freedom of Religion and Religious Organizations Act, Turkmen citizens are equal before the law in all areas of civil, political, economic, social and cultural life, regardless of their religious views. A citizen's attitude towards religion may not be indicated in official documents.

567. Any direct or indirect restriction on the rights or privileged treatment of a citizen in relation to his/her religious or atheistic persuasion and any incitement to hostility or hatred or any insult to a citizen in that connection constitute grounds for bringing charges in accordance with the law.

568. No one may fail to fulfil his/her legal obligation on the grounds of his/her religious persuasion. Replacing fulfilment of an obligation with the fulfilment of another on the grounds of religious persuasion is permitted only in the cases provided for by the law.

569. The State promotes mutual tolerance and respect among the citizens, between organizations embracing a religion or embracing none and between religious organizations and those of their members having a different faith; prohibits the manifestation of religious or other fanaticism or extremism, and of any actions seeking to polarize and degrade relations and to kindle hostility among religious organizations.

570. The State does not assign State functions to religious organizations nor does it interfere in their activity, provided it does not run counter to the law. The State finance no activity undertaken by religious organizations or involving propaganda in favour of atheism.

571. Religious organizations must comply with the domestic legislation. A religion may not be used to propagandize against the State or the Constitution, to incite to hostility, hatred or international dissension, to undermine society's moral foundation or social harmony, to disseminate slanderous or destabilizing fabrications, to create panic among the population or unhealthy relations among the people, or to commit other acts, directed against the State, society or the individual. The activity of religious organizations, movements, sects or other organizations facilitating or disseminating terrorism, trafficking in drugs and other crimes is prohibited. Any attempt to exert pressure on Government organs or officials and any illegal religious activity, including within the household, are punishable under the law.

572. Turkmenistan's education system is separate from religious organizations and is secular. Turkmen citizens are entitled to a secular education regardless of their attitude towards religion.

573. Turkmen citizens have the right to instruction in a spiritual doctrine and to spiritual education of their choice individually or together with others, subject to authorization by the Council<sup>7</sup> for religious affairs attached to the Office of the President of Turkmenistan, in mosques, on condition that the parents, persons in loco parentis, statutory representatives and the children themselves give their consent. Children may also receive spiritual instruction for up to two hours per week on their free time at school. Instruction in a spiritual doctrine in a private framework is prohibited and punishable according to the law.

574. It is prohibited to establish any advantages or limitations with regard to one or more religions in distinction to other religions.

575. The creation and activity in Turkmenistan of political parties or public movements of a religious character, and of branches or sections of religious parties created abroad, is prohibited. Political propaganda is incompatible with the activity of religious organizations.

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<sup>7</sup> Or "gengesh"

576. Religious organizations register with the Ministry of Justice on proposal by the Council for religious affairs; and acquire legal entity status based on that registration and their inclusion in the national register of legal entities.

577. The activity of the unregistered religious organizations is prohibited. Any person engaging in such activity is punishable according to the law.

578. In order to register a religious organization, the Ministry of Justice is entitled to seek additional information and the expert opinion of appropriate departments. In that case, the relevant decision is taken within three months from the submission of the application for registration.

579. Additions and amendments to the regulations of a religious organization are subject to registration subject to the same procedure and time limits as the registration of the religious organization.

580. The Freedom of Thought and Religious Organizations Act of 29 May 1991 was adopted before independence and the adoption of the Constitution in order to safeguard freedom of religion for the citizens. The Act guaranteed the rights of citizens to determine and express their attitude to religion, to freedom of thought, freedom to choose a religion and perform religious rites; and protected the rights and legitimate interests of citizens regardless of their religious or atheistic views.

581. After the adoption of the Constitution on May 18 1992, the above Act was amended in line with the new Constitution and international law on 12 April 1993, 13 October 1995 and 6 December 1996. In accordance with the law, other provisions on issues related to freedom of religion were also adopted. In order to facilitate the regulation of social relations linked to the implementation of the Act, the Religious affairs board was established and attached to the Government. The Council's regulation was promulgated through Presidential Decision No. 552 of 15 January 1992. Presidential Decision No. 704 "on issues related to the registration of religious organizations" 8 May 1992 establishes the procedure for the registration in question.

582. Under Presidential Decree No. RP-444 of 29 May 1992, 140 pilgrims travelled with Government support to Saudi Arabia in order to perform the hajj. The number of pilgrims has increased to 188 and includes members of national and religious minorities.

583. Presidential Decisions:

- No. 1652 of 21 January 1992 regulated issues related to the registration of religious organizations in order to improve the relevant legislation
- No. 1775 of 20 April 1994 established the Council for religious affairs attached to the Office of the President of Turkmenistan in order to enhance the cooperation of all faiths with the State
- No. 2794 of 13 September 1994 established the regulation of that Council
- No. 1832 of 17 June 1994 aimed to promote training for professionals highly knowledgeable about religion and its history and philosophy. On 1 September 1994, a theology department was created in the Makhtumkuli State University. In that connection, theology experts who so wished were sent, with Government support, for training in Egypt, Saudi Arabia, Syria, Turkey and other countries.

584. In order to restore ancient traditions of the people, which have practically disappeared, and to safeguard freedom of religion, the religious holidays of Lesser Bairam (lasting one day) at the end of the month of Ramadan and Greater Bairam (lasting three days) are observed every year by the members of all religious communities, on the basis of respective Presidential decisions.



585. While strengthening the independence of national legislation, international law standards have been implemented in a targeted manner, including on issues related to freedom of religion. The Freedom of Religion and Religious Organizations Act of 21 October 2003 safeguards the right of every person to such freedom. The Act was amended and enhanced on 16 March 2004, including the reduction of the minimum number of members required for forming a religious organization from 500 to 5 Turkmen citizens.

586. The following initiatives were taken subsequent to the adoption of the above Act:

- A Presidential Decision “on the registration of religious organizations” of 14 January 2004 established rules for such registration
- Presidential Decision No. 6627 of 11 March 2004 guaranteed registration of religious organizations and groups regardless of faith
- An Act of 13 May 2004 amended the Criminal Code by abolishing criminal liability for violating the law on religious organizations, in order to further improve national legislation and its compatibility with international standards
- On 19 September 2005, the Ministry of Justice created a commission to review records related to the registration of religious organizations and public associations. The commission’s composition was confirmed by a Presidential decision.

587. The development of national legislation on safeguarding the citizens’ right to freedom of religion and the activity of religious organizations of various faiths reveal that freedom of religion is a cornerstone of the promotion of human rights in the country. A comparison of data is telling in that regard. For instance:

- During the period of the Soviet regime and “Developed socialism”:
  - Only moderate Islam and Orthodox Christianity were active
  - There were no legislative safeguards for freedom of religion
  - All religious persons were guided by Turkmen Supreme Soviet Presidium Edict No. 328-IX “on religious associations” of 22 July 1976, which was based on:
    - The Turkmen SSR Decree “on the separation between church and State and between school and church” of 23 January 1918
    - The restrictive decisions of the All-Union Central Executive Committee (VCIK) and the Council of Peoples’ Commissars (CNK) of USSR of 1929 and 1944, respectively.
- After the disintegration of the Soviet Union and Turkmenistan’s establishment as an independent State:
  - The Freedom of Religion and Religious Organizations Act, as amended on 16 March 2004, is currently in force
  - 123 religious organizations are currently registered officially in the country, including:
    - 100 organizations following traditional Islam
    - 13 Orthodox Christian organizations
    - 10 religious organizations following other faiths.

- In particular, the following organizations have registered with the Ministry of Justice:
  - A “Seventh-day Adventists” organization, in May 2004
  - A Baha’i Faith organization, in June 2004
  - An “Evangelical Christian Baptist Church” organization, in June 2004
  - A “Krishna Consciousness Society” organization, in June 2004
  - A “Church of Evangelical Christians”-”High Grace“ organization, in 2005
  - A “Church of Christ” Protestant organization, in 2005
  - A “Full Gospel Christians” Protestant Evangelist organization, in 2005
  - A “New Apostolical Church” (NAC) Christian organization, in 2005
  - A “Light of the East” Evangelical Christian organization, Dashoguz region, in 2005
  - The “Yakup ishan“ Moslem organization, Lebansk region, in March 2006
  - The “Gurbanmyrat ishan“ Moslem organization, Akhalsk region, in September 2007
  - A “Source of Life” Evangelical Christian organization, Lebansk region, in September 2007
  - The “Main Mosque of the Mariysk Region”, on May 15 2009.
- Overall, in addition to traditional Moslem bodies, 23 religious organizations of various denominations registered during the period considered. Recently, such registrations have taken place in the Dashoguz and Lebap regions. The Council for religious affairs and the Ministry of Justice are currently considering registration applications by four further religious organizations.

The number of religious organizations is greater than the number of “non-traditional religions”, and the majority of population consists of followers of traditional Islam. No grievance concerning the implementation of any of the rights provided for in the Covenant leads to discrimination against followers of other religions or persons having no religion. That is in line with the Turkmen people’s time-honoured tradition of majority respect for the minority. Discrimination against minorities in civil service recruitment is prohibited. An example in point is the case of Father Andrey (Sapunov Andrey Ivanovich), Orthodox Rural Dean of Turkmenistan and, concurrently, deputy chairman of the Council for religious affairs and participant in efforts to address various Government tasks.

588. In accordance with its regulation, in its capacity as an expert and advisory State body on religion-related issues, the Council for religious affairs:

- Engages in on-going information and awareness-raising activities addressing registered and unregistered religious organizations, religious persons, and representatives of public bodies
- At the request of religious organizations, assists them in organizational, legal, social, economic and other matters (notably, the Parliament sponsors a weekly television broadcast explaining the national laws for those interested, including religious persons and actors)

- Through its representatives, frequently participates in religious ceremonies, holidays and other events conducted by religious organizations; and organizes frequent encounters with religious persons
- In line with the aim of religious organizations “to be socially useful”, held in May 2007 a “Healthy Living” exhibit organized by the “Seventh-day Adventists” religious organization which used visual material to demonstrate healthy living methods and show the effects of harmful habits
- In April 2008, assisted in organizing a visit to Turkmenistan by the German preacher Andrea Schwarz, who celebrated a service in the “Seventh-day Adventists” church in Ashkhabad, visited interesting sights, historical monuments and mosques, and at his request, on Friday, 25 April 2008, with members of that church, prayed with Moslems at one of the city’s major mosques, attesting to the mutual respect and tolerance prevailing among different religions in Turkmenistan. In that connection, in the framework of international activities for exchange of experience, spiritual enhancement and outreach involving the respective religious communities, German NAC members Wolfgang Nadolny and Thomas Herm and Chinese spouses Shidvash and John Farid of Baha’i Faith, Turkmenistan, visited Ashkhabad in April 2009.

589. Ms. Asma Jahangir, United Nations Special Rapporteur on freedom of religion or belief, visited the country in September 2008 at the invitation of the Government. In cooperation with United Nations bodies, the competent national units are studying the recommendations contained in the Special Rapporteur’s report and calling for further improvement of the relevant legislation and the system of registration of religious organizations. National law reform in line with the amended Constitution is currently in progress, including with regard to freedom of religion. To that end, in the framework of international collaboration with the experts designated by the International Centre for Not-for-Profit Law (ICNL), the country’s current legislation governing the activity of religious organizations is being reviewed with a view to aligning domestic law with international standards. An agreement has been reached with the USAID mission and ICNL to organize a series of related seminars and a presentation of an assessment of Turkmen legislation on religious organizations. The seminars will be attended by international experts, Turkmen parliamentarians, and representatives of the Ministry of Justice and other relevant Turkmen bodies. Based on the Special Rapporteur’s recommendations, the examination of international standards, foreign legislation and the ICNL review, recommendations will be drafted with a view to enhancing the country’s existing legislation in the area considered.

## Article 19

590. Under article 28 of the Constitution, Turkmen citizens have a right to freedom of opinion and expression, and to receiving information, save for State or other secrets protected by law.

591. Under article 1 of the Press and other Media Act of 10 October 1991, the press and other media are free. Freedom of speech and of the press ensure citizens have the right to express one’s opinions and views, seek, select, obtain and disseminate information and ideas in any form, including through the press and other media. Censorship of mass information is prohibited.

592. Under article 7 of the Act, the right to set up media units is enjoyed by public bodies, political parties, public organizations, mass movements, creative unions, cooperatives, religious or other citizen associations set up in accordance with the law, labour collectives, and Turkmen citizens who are at least 18 years old.

593. Under article 36 of the Act, criminal charges may be brought against any officials of State and public bodies who impair the legal professional activity of journalists, or coerce or prevent them from disseminating information.

594. Abuse of freedom of speech, dissemination of calumnious information detrimental to the honour and dignity of a citizen or an organization and the exertion of pressure on a court of law by journalists are subject to criminal, administrative or other liability in accordance with the law.

595. A journalist may:

- Seek, obtain and disseminate information
- Serve as an official in connection with fulfilling professional journalistic duties
- Produce any recordings, including audiovisual ones, cinematographic films or photographs, except in the cases specified by the law
- On presentation of professional certification, be present at natural disaster sites, meetings or demonstrations
- Address specialists to verify facts and circumstances in connection with the subjects treated
- Not sign reports contrary to his/her convictions
- Withdraw his/her signature from reports, whose content in his opinion, was altered in the editorial process
- Not specify his/her sources.

Under article 30 of the Press and other Media Act, a journalist enjoys additional rights.

596. Turkmen media use Turkmen, Russian and other languages.

597. Under article 11 of the Act, refusal to licence a media unit man will be based solely on non-compliance with the law. Under article 14 of the Act, such refusal, a public body's delay to issue a licence within the statutory one-month registration period, and any decision to prohibit further activity of a media unit may be challenged in court by the founder or the editorial staff. The court examines these issues, including any ownership disputes, according to the procedure established by civil procedure law.

598. Under article 13 of the Act, the interruption of broadcasting or publishing by a media unit may be decided by the founder, the organ having registered the unit or the court.

599. The organ having registered the unit or the court interrupts the broadcasting or publishing activity if the unit violates again, within a year, the requirements of article 5 (1) of the Act.

600. If the media unit does not broadcast or publish over a period longer than one year, up to date information is required to renew the license.

601. Freedom to seek, obtain and disseminate information implies specific obligations and responsibilities, involving certain restrictions. Abuse of freedom of expression by the media is not allowed. Accordingly, the media may not be used to disseminate information constituting a State or other secret specifically protected by law; call for a violent overthrow of or change in the current political or social system; propagandize war, violence, cruelty or racial, national or religious exclusion or intolerance; or disseminate pornographic material, in order to commit other criminal acts.

602. Under article 5 of the Act, use of the media to interference with the private life of citizens or attack their honour or dignity is prohibited and punishable. Under article 28 of the Act, media editorial staff and journalists may not:

- (a) Name a person who provided information on condition anonymity, unless the court so requires;
- (b) Reveal preliminary inquiry information without written permission from the public procurator, investigator or official conducting the inquiry; or publish information allowing to identify an under age offender without the offender's and his/her statutory representative's consent;
- (c) Anticipate the outcome of judicial proceedings in a given case or otherwise exert pressure on a court before it hands down an enforceable judgement or sentence.

603. Under article 29 of the Act, moral (non-property) harm, caused to a citizen as a result of dissemination by the media of calumnious information detrimental to the citizen's honour or dignity, or other non-property prejudice is compensated by the media unit or the officials or citizens responsible, based on a court decision. The amount of compensation for such harm is determined by the court.

604. Under article 132 of the Criminal Code, the presentation of untrustworthy information or slanderous announcements publicly by the media constitute grounds for criminal liability.

605. Under article 24 of the Press and other Media Act, citizens are entitled to timely and reliable information through the media on the activities of Government bodies, public associations and officials.

606. The media are entitled to obtain such information from Government bodies, public associations and officials. They offer the media the available information and access to the relevant documents.

607. Refusal to provide the requested information may be challenged by the representative of a media unit to a higher body, an official, and subsequently in court according to the legal procedure for challenging inappropriate actions by Government administration bodies and officials violating civil rights.

608. With a view to improving the activity of the organs and officials of executive power in monitoring the observance of the rights and legitimate interests of citizens, TNIDIPC and the Embassy of the United Kingdom, in the framework of a programme of legal cooperation between that country and Turkmenistan, organized on 26 January 2008 a round table, attended by international experts, on "The principles of effective consideration of complaints submitted by citizens". Joint measures are envisaged in the framework of a new cooperation programme.

609. Under article 25 of the Constitution, every citizen has the right to protection against arbitrary interference in his/her private life, against infringements of the confidentiality of his correspondence and telephone or other communications, and against damage to his/her honour or reputation.

610. The newspapers and magazines published in Turkmenistan, 40 in number, are all State publications. Of the 24 newspapers, "Neutral Turkmenistan" appears in Russian and so do 6 magazines, including the magazine entitled "Revival". The magazines "Turkmenistan Economy", "Democracy and Law" and "Miras" (or "Heritage") appear in three languages, namely Turkmen, Russian and English. Other publications include the records of Presidential and Government meetings and the Parliament Journal.

611. Of the five existing television channels, which include “Aptyn Asyr”, “Miras”, “Yashlyk” and “Ovaz”, the “Turkmenistan” channel broadcasts in three languages, as above.

## **Article 20**

612. Under article 167 of the Criminal Code, war propaganda, dissemination, through the media or otherwise, of calls to wage war, is punishable by correctional labour for up to two years or imprisonment for up to five years.

613. Under article 30 of the Constitution,, citizens may form political parties or other public associations, operating within the framework of the Constitution and the law.

614. The same article prohibits the establishment and activity of political parties, or public paramilitary associations, aimed at altering the constitutional order by violence, engaging in violent acts, opposing the constitutional rights and freedoms of citizens, advocating war, racial, national or religious hatred, or acting in a manner detrimental to the health or morals of the people; and political parties with ethnic or religious attributes

615. Under article 177 of the Criminal Code, deliberate acts aimed at inciting social, national, ethnic, racial or religious hostility or dissension or attacking national dignity through humiliation; and propaganda targeting the exclusion or asserting the inferiority of citizens based on their attitude to religion or their social, national, ethnic or racial affiliation carry fines equal to 20-40 times the average monthly wage or deprivation of freedom for up to 3 years. If committed through the media, the same acts carry fines equal to 25-50 times the average monthly wage or deprivation of freedom for 2-4 years. If committed with the use or under the threat of physical violence or by an organized group, the same acts carry deprivation of freedom for 3-8 years.

616. Article 5 of laws the Press and other Media Act also prohibits the use or dissemination of literature and publications propagandizing war, violence and cruelty, or exclusion or intolerance on racial, national or religious grounds; and the dissemination of the pornography, which are aimed at the commission of other criminal acts.

617. Under article 19 of the Migration Act, foreign citizens and stateless persons may freely move about the national territory open to visits by aliens. An Immigration Department permit is required for entry into areas not open to such visits.

## **Article 21**

618. Under articles 28 and 29 of the Constitution, Turkmen citizens are entitled to freedom of opinion and expression of their views; and are guaranteed freedom of assembly and the freedom to hold a rally and to demonstrate in the manner prescribed by law. These constitutional provisions are reflected in the Public Associations Act. According to article 21 of that Act, in order to pursue their statutory objectives, public associations may hold meetings, rallies, demonstrations and parades according to the procedure established by the law.

619. Under article 22 of the Public Associations Act, when organizing such a public event, public associations must notify the date of the event in advance to the Ministry of Justice and allow a representative of the Ministry to attend the event.

620. Under article 7 of the State of Emergency Act, during a state of emergency and depending on actual conditions, the political and administrative authorities may prohibit strikes; meetings; rallies; parades; demonstrations; and entertainment, sport and other mass events; and halt activities involving large gatherings.

621. Under article 1782 of the Administrative Offences Code, violation of the rules of

organizing and holding meetings, rallies, parades or demonstrations carries an admonition or a fine equal to 4 minimum wages; or, in exceptional cases, where, in view of the circumstances of the violation and the personality of the offender, such penalties are deemed insufficient, administrative detention for up to 15 days. The same acts, if committed again within one year after the administrative penalty or by the organizer of the events in question, carry a fine equal to 15 minimum wages or correctional labour for one to two months with withholding of 20 per cent of earnings, or administrative detention for up to 15 days.

622. Under article 1785 of the Administrative Offences Code, the illegal organization of strikes, meetings, rallies, parades or demonstrations during a state of emergency despite the prohibition of such events in the areas concerned by the state of emergency a fine equal to 8 minimum wages or administrative detention for up to 15 days.

623. Under articles 253 and 254 of the Administrative Offences Code, persons having committed an administrative offence may be arrested solely by the organs or officials authorized to that purpose by the law, and, in the case of violation of the rules of organizing and holding meetings, rallies, parades or demonstrations, by internal affairs organs or officials. Administrative detention of the offenders in question may not exceed three hours. In exceptional cases and in view of special requirements, other administrative detention periods be established legislatively.

624. Persons having violated the rules of organizing and holding meetings, rallies, parades or demonstrations may be detained until the case is examined by a judge or by the chief (deputy chief) of the internal affairs organ. The period of administrative detention begins at the moment of presenting the offender for drawing up a detention record.

625. Under article 223 of the Criminal Code, if committed by the organizer of meetings, rallies, parades or demonstrations after the imposition of an administrative penalty for a similar act, the violation of the rules of organizing and holding such events carries a fine equal to 5-10 times the average monthly wage or correctional labour for up to 1 year or deprivation of freedom for up to 6 months.

## Article 22

626. Under article 30 of the Constitution, citizens may form political parties or other public associations, operating within the framework of the Constitution and the law. The same article prohibits the establishment and activity of political parties, or public paramilitary associations, aimed at altering the constitutional order by violence, engaging in violent acts, opposing the constitutional rights and freedoms of citizens, advocating war, racial, national or religious hatred, or acting in a manner detrimental to the health or morals of the people; and political parties with ethnic or religious attributes.

627. Public associations are an integral part of civil society, for whose development all necessary conditions exist in the country.

628. The Public Associations Act, in line with the Constitution, is aimed at implementing the right of citizens to form public associations and provides a legal and organizational framework for the creation, activity, reorganization and dissolution of public associations; and at regulating the social relations pertaining to that area.

629. The particular aspects of the creation, activity, reorganization and dissolution of the various forms of public associations are regulated by special Acts adopted under the Public Associations Act. The activity of the public associations concerned up to the adoption of special Acts, and also the activity of public associations not regulated by special Acts, is regulated by the Public Associations Act.

630. Where an international agreement concluded by Turkmenistan provides otherwise than the Public Associations Act, the provisions of the international agreement are adopted.
631. A public association is a voluntary, autonomous, non-commercial entity, created on the initiative of citizens uniting on the basis of a shared interest in achieving common goals, stated in the public association's regulation.
632. Under article 1 of the Act, citizens create public associations by their own choice and have a right to enter such entities on condition of compliance with their regulations.
633. Public organizations and funds operate as legal entities as from their registration. They are registered with the Ministry of Justice. The registration procedure for public organizations pursuing political or other goals of social significance (political parties, religious organizations or trade unions) is determined by special laws.
634. Public associations may be set up in of the following organizational and legal forms:
- (a) Public organization;
  - (b) Public movement;
  - (c) Public fund;
  - (d) Independent public activity body.
635. Regardless of their organizational and legal form, public associations, may form unions (leagues) of public associations on the basis of a founding agreements and/or regulation, adopted by the unions thus formed as new public associations. The unions have the capacity of a legal entity as from their registration.
636. The creation, activity, reorganization and dissolution of unions of public associations is governed by the procedure provided for by the law, particularly the Civil Code.
637. Based on a court decision as provided by the law, the Ministry of Justice may interrupt the activity of a public association in the case of violation of the Constitution, the law or the regulation of the public association.
638. When the violation having prompted the interruption of its activity has stopped, the public association may request the authority having interrupted the activity to allow that activity to resume. Should the public association fail to end an identified violation within the time limit indicated, the Ministry of Justice files with the court a document for the dissolution of the public association.
639. A Presidential Decree on social partnerships in the area of social and labour relations, adopted in 1992, ushered in the practice of State-level annual agreements on social and economic issues among the Government, the Council of the Federation of Trade Unions of Turkmenistan and the authorized representatives of entrepreneurs. Such agreements have established obligations regarding employment, gradual upgrading of social insurance, social protection for the most vulnerable population groups, and guaranteed income increases in proportion to the stabilization of the economy.
640. According to the Trade Unions Regulation, trade unions are voluntary associations formed by citizens having common interests depending on the type of their activity in production and non-production areas in order to formulate, realize and defend the work-related, social and economic rights and interests of their members. Trade unions of Turkmenistan are non-political independent public associations.
641. Under article 5 of the Public Associations Act, the founders, members or (where the regulation does not provide for members) participants of public associations must be adult citizens, unless otherwise provided by the Act or the special Acts.



642. Citizens having reached the age of 14 or 8 may be members of, respectively, youth or children's public associations.

643. The regulations of the individual public associations determine the conditions and procedures for becoming or ceasing to be a member, including withdrawal at reaching the age limit.

644. Membership of a public association may not figure in official documents. Such membership or non-membership may not serve as a basis for limiting civil rights or freedoms or granting of any benefits or advantages by the State of any privileges save for cases provided for by the law.

645. State bodies may not be public association founders, members or participants.

646. Foreign citizens permanently residing in Turkmenistan, stateless persons and Turkmen or foreign legal entities or public associations may participate in the activity of international public associations.

647. Turkmen legal entities or public associations may participate in the activity of national public associations.

648. Article 14 of the Public Associations Act governs the relations between the State and public associations. Interference by State bodies or their officials with the activity of public associations and vice versa is prohibited save for cases provided for by the law.

649. The State ensures the observance of the rights and legitimate interests of public associations, supports their activity, and regulates by law the extension to them of tax or other benefits or advantages. State support may take the form of targeted grants, for which public associations apply in connection with specific projects useful to the community; agreements of various types, including for work or services; and, in the framework of various Government programmes, social services procurement on the basis of competitive bidding procedures open to all interested public associations.

650. In the cases provided by the law, issues affecting the interests of public associations are resolved by Government agencies in cooperation or agreement with the public associations concerned.

651. Public association employees are subject to labour law and have social insurance coverage.

652. Under article 15 of the Act, public associations may be founded on the initiative of at least five Turkmen citizens. However, in the cases specified by law, the founders may also include foreign citizens and Turkmen or foreign legal entities or public associations. International public associations are governed by Turkmen law. To be created, international and national public associations must have, respectively, 50 or 500 members or participants.

653. The decisions to create a public association, adopt its regulation and establish its governing and internal-control bodies are taken by the general meeting or assembly of a public association.

654. Under article 18 of the Act, a public association may be refused registration if:

- Its regulation violates the Constitution, articles 4, 5, 16 or 17 of the Act, or any other law
- A public association with the same name is already registered in the territory where it will operate
- The necessary founding documents are not submitted in their totality or required form
- The founding documents deliberately contain inaccurate information
- Its name offends the citizens' moral sense or national or religious feelings
- If its founders include a person convicted for a particularly grave crime.

655. Any refusal to register a public association is communicated to it in the form of a written notification stating the grounds for the refusal. The public association may reapply for registration on condition of first eliminating those grounds. The new application is examined and decided upon according to the procedure established by the law.

656. Under article 19 of the Act, the refusal to register a public association may be challenged in court according to the procedure established by the law.

657. Article 28 of the Act regulates issues related to monitoring and supervising the activity of public associations. The Ministry of Justice and the province justice departments verify the compliance of such activity with the public associations' goals under its regulation. These control bodies may require the governing bodies of a public association to present the founding documents; send representatives to attend activities carried out by a public association; question public association members or other citizens on issues related to compliance with the regulation; and, in the event that a public association violates the law or the regulation, issue a written admonition to the public association.

658. The Ministry of Justice cancels the registration, if the public association essentially engages in a business activity or attainment of the goals stated in the regulation becomes impossible.

659. If a public association receives in one year more than two written admonitions or instructions to end a violation or fails to submit within one year to the Ministry of Justice updated information related to registration, the Ministry may file with the court a document for the dissolution of the public association.

660. The Procurator-General and his/her subordinate public procurators monitor compliance with the Public Associations Act. Financial-control and tax organs monitor the public associations' income sources, size of funds available to them and fulfilment of tax obligations in accordance with the law. Environmental protection, fire service, sanitation- or epidemiological-control or other State oversight and control may monitor the public associations' compliance with the respective norms and standards in force.

661. Public associations are dissolved and cease their activity in the cases provided for in their regulations, by decision of their general meeting or assembly, by court decision, or as a result of cancellation of their registration by the Ministry of Justice. Public associations may be dissolved by court decision in the following cases:

- Violation of the provisions of article 4 (“Restrictions on the creation and activity of public associations”) of the Public Associations Act
- Violation, through the activity of the public association concerned, of civil rights and freedoms
- Repeated or gross violations of the law or other legal provisions or systematic conduct of an activity incompatible with the goals stated in the regulation
- Failure to provide within one year information on specific changes to elements subject to registration and entry in the national registry of legal entities
- Submission of inexact information for the registration of the public association.

662. Public association dissolution documents are filed with the court by the Ministry of Justice. The dissolution of a public association by court decision implies a prohibition of the public association's activity. The dissolution proceeds in accordance with the law. In view of the dissolution, pending matters must be settled, the monetary value of net assets is determined, creditors are paid and the balance is distributed among the persons entitled to it.

663. The persons entitled to receive the balance of assets may be specified in the regulation. In the absence of such a specification, the Ministry of Justice may, at its discretion, transfer that balance to one or several public associations pursuing goals identical or similar to those of the public association dissolved.

664. Public associations of veterans are created for the protection of the rights and legitimate interests of that category of citizens in accordance with the law. Government authorities support the activity such public associations. Decisions on issues related to the social protection of veterans and the activities of their public associations are taken by Government, local executive and local Government bodies.

665. Public associations of persons with disabilities are created for the implementation of measures aimed at the social protection and the socioprofessional and medical rehabilitation of that category of citizens and their participation in activities useful to the community. Government administration and control bodies support the activity such public association. The public associations in question engage in productive, financial or other activities not prohibited by the law; and, according to the procedure established by the law, enjoy advantages with regard to their undertakings, organization and establishment. The creation, activity and dissolution of this category of public associations are regulated by the law.

666. Under article 4 of the Trade Unions Regulation, trade unions may establish bilateral relations and cooperation with trade unions in other countries and also with international trade union associations.

667. A trade union member has the right to:

- Have the trade union concerned defend his/her legitimate interests and present them to the administration and control authorities and to employers
- Receive social assistance, support and free legal assistance from the trade union
- Stand for election, elect and be elected to trade-union organs
- Leave the trade union on the basis of a personal statement to that effect.

668. Under the Regulation, a trade union member found guilty of a criminal offence is expelled from the union.

669. Under the law, trade unions, within the limits of their power, represent and protect their members' social, economic, employment and other rights and provide their members with material assistance.

670. Any citizen may be a trade union member, provided he/she accepts and complies with the Regulation, is registered with a primary trade union organization and pays his/her membership dues.

671. Admission to membership of a trade union proceeds on the basis of an individual statement at a meeting of the trade group of the primary trade union organization or at a meeting of the trade-union committee; and is attested by a standard certificate.

672. Union members retain the right to trade-union membership during transfer from one trade union to another or a temporary or permanent interruption of the production activity on condition of maintaining one's relation with the primary trade union organization.

673. Trade unions, in the form of primary organizations, councils of branch trade unions, regional associations of trade unions or the National Trade-Union Centre, fulfil the basic tasks and responsibilities listed below. They:

- Represent and defend the social, economic, employment and other rights and interests of their members in accordance with the law
- Within the limits of their power, participate in the preparation and conclusion on behalf of the workers of collective agreements with employers in enterprises,

organizations and establishments, regardless of their form of ownership; and of industry agreements and conventions with Government bodies; and ensure the inclusion in the agreements and conventions of clauses on issues related to production development, use of labour, work effectiveness and quality enhancement, work organization improvement, adequacy and timely payment of wages, safety, health and an appropriate environment at the workplace, housing conditions improvement, free time organization of leisure, and health improvement for the workers and their families

- Monitor compliance with the agreements and conventions
- Provide union members with material assistance
- Contribute to promoting, within society, a healthy way of life, spirituality and morals
- Provide organizational, methods-related, advisory and other assistance to their organizations and establishments; and organize training for trade-union managers and members
- Fulfil other tasks and responsibilities, over and above those referred to in the Regulation.

674. Trade-union organizations and organs have the right to:

- Obtain from the political, administrative and economic authorities and the employers, regardless of the form of ownership, necessary information on the living conditions of workers, their social protection coverage and other issues affecting the workers' interests and rights
- Participate in the preparation and review of draft and legislation and regulations related to the realization of workers' rights and social and economic condition
- Submit to the political, administrative and economic authorities proposals for the repeal or the temporary suspension of administrative decisions incompatible with the law and detrimental to the rights and interests of workers.

675. The organizational structure of trade unions is based on a combination of production-related and regional principles and is reflected in the following breakdown:

- (a) Primary trade union organizations: 6,588;
- (b) Industry trade unions: 16;
- (c) Regional trade-union associations: 5;
- (d) National Trade-Union Centre.

In order to discharge their current tasks, trade unions may employ a permanent. In addition to the usual tasks and responsibilities of a trade union, a regional association of trade unions:

- (a) Promotes the interests of union members, primary organizations and the National trade union centre to the political and administrative authorities and to the employers;
- (b) Verifies membership due receipts and controls the relevant deductions;
- (c) Performs other tasks in accordance with the Regulations and National trade union centre decisions.

676. Citizens serving in the Armed Forces and the Police may not be trade-union members concurrently with such service.

677. In February 2007, the National trade union centre drew up a draft Act on trade unions and guarantees for their activity and submitted it to the Parliament for consideration.

678. Currently, there are in the country 1,066,462 trade union members, including 494,851 women. Trade union membership is broken down into social groups as follows:

- Labourers - 326,629
- Rural workers - 397,275
- Higher and specialized education students - 20,308
- Civil servants, and engineers and technicians - Remainder.

679. Since 1992, trade unions celebrate in March-April of every year, in all enterprises and organizations regardless of their form of ownership, the Day of united trade-union action in defence of the workers' right to occupational safety and health protection. Such action is mainly aimed at promoting the exercise of the right in question, urging consideration and concern for the working human being, and drawing the attention of Government authorities, public associations, local Government bodies and employers, regardless of the form of ownership of their enterprise, to occupational safety and health protection, industrial and environmental security, occupational accidents and morbidity, and compliance with labour legislation and industrial safety requirements.

680. In order to facilitate the implementation of trade union action in the country, a Presidential decision was issued in 1994, approving and supporting a National Trade-Union Centre initiative for launching a nation-wide patriotic movement under the slogan "Our contribution to Turkmenistan's social and economic development". In that framework, ministries, departments, province governors<sup>8</sup>, city and region authorities, together with trade-union organs, actively participate in annual assessments of the movement's achievements. The work collectives and forward-minded workers having attained outstanding results through their labour receive distinctions and rewards, and the most successful are awarded State prizes.

681. The Women's Union of Turkmenistan, a public organization, registered as a legal entity with the Ministry of Justice on 28 May 1993. The Union's members belong to various occupational and age groups. Women's organizations have been created in all five provinces, in Ashkhabad and in the country's regions. In enterprises and other units of all sectors of the economy, women grass roots organizations are being set up.

682. The Women's Union of Turkmenistan, in cooperation with local Government bodies and in the framework of a joint project with UNDP, has carried out a number of activities for the development of business among women in the regions, with a view to reducing income and standard-of-living disparities and ensuring equal pay for male and female rural workers. Self-employment among women has been significantly promoted through training, seminars, evaluation sessions, periodic information for self-employed women (for instance, through the publication of a "Women in Business" organizer), and training trips abroad to draw on international experience. Such activities have served to demonstrate various approaches to the involvement of unemployed rural women in entrepreneurial activities and the creation of business opportunities for women. Building on traditional Turkmen crafts, rural women have engaged with particular interest in creating small businesses for carpet weaving, traditional clothes and ornaments trade and everyday services.

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<sup>8</sup> Or "hyakim"

683. On 26 February 2009, the Women's Union of Turkmenistan and UNDP organized a Forum on rural business women and an exhibit entitled "Our Possibilities" and comprising articles produced by craftswomen. The Forum was widely reported upon in the media.

684. The legal basis for the activity of the Women's Union of Turkmenistan consists of the Constitution, the Public Associations Act, the Women's Equality State Guarantees Act, the Union's Regulation, adopted in May 1993, and other legal and regulatory instruments. A draft updated version of the Union's Regulation is currently under preparation by a 14-member committee set up by decision of the Central Council of the Union. The committee comprises the members of the Central Council and representatives of other public organizations.

685. The Women's Union of Turkmenistan participates in the nation-wide movement "Galkynysh" (or "Revival"). Together with other public organizations, the Union is actively involved in information initiatives among the population, especially women, regarding healthy living and the Government's domestic and foreign policy; and in the organization of large-scale political and cultural events, conferences on applied science topics and forums.

686. The 91 public associations registered as of 25 November 2009 included 32 sports organizations and the following 4 public organizations for sportspersons with disabilities:

- National Special Olympics Centre
- Physical Education and Sports Club for Persons with Disabilities
- National Paralympics Committee
- National Chess Centre for the Blind.
- The following three public associations were registered in 2009:
  - National Automobile Sports Centre
  - National Chess Centre for the Blind
  - National Wrestling Centre.

687. On 16 May 2009, the Veterinary Association of Turkmenistan transmitted to the Ministry of Justice of Turkmenistan a statement requesting that the association should be crossed out from the register of public organizations. This was done by Ministry of Justice order No. 054 of 18 June 2009.

688. On a regular basis, TNIDIPC, assisted by USAID and ICNL, organizes forums, attended by international experts, for international experience exchange in relation to issues regarding the improvement of Turkmenistan's legislation on public associations. Thus, forums entitled "Legislation on public associations", "Improvement of legislation on public associations" and "Issues related to the improvement of legislation on public associations" were held on, respectively, 3-4 April 2008, 17-18 November 2008 and 28-29 September 2009.

## Article 23

689. Under article 27 of the Constitution, upon reaching the legal age for marriage, women and men may mutually consent to join in wedlock and form a family. The spouses enjoy equal rights in family relations. Parents and substitute parents have the right and obligation to raise the children, care for their health, development and education, prepare them for work, and impart to them the culture of respect for the law and for historical and national traditions. Adult children are obliged to take care of their parents and to extend support to them.

690. The Women's Equality State Guarantees Act is aimed at implementing the basic principles of the Government's human rights policy and ensuring women's comprehensive development and progress. It provides State guarantees regarding the realization by women, on an equal footing with men, of human rights and freedoms in the political, economic, social, cultural and other areas.

691. Under article 8 of the Act, the State guarantees women's equality with men with regard to the legal age for marriage, the exercise of the right to enter into marriage and to create a family, wherein the spouses enjoy equal rights.

692. The Marriage and Family Code lays down the basic rules governing family relations. As stated in article 1 of the Code, the Code's objectives consist in basing family relations on the voluntary union of the spouses; on feelings of mutual love, friendship and respect among all family members without any material considerations; and on full protection of the interests of the mother and the children.

693. Under article 32 of the Marriage and Family Code, the following rules govern the dissolution of a marriage:

(a) The marriage ceases as a result of death or declaration in the judicial order by dead person of one of the spouses;

(b) A marriage may be terminated through divorce any time during the spouses' life upon application by either spouse.

Under article 40 of the Code, where the spouses divorce by mutual consent and have no minor children, the dissolution of the marriage is pronounced in population registry offices, which issue the divorce certificate to the spouses within three months from the date of submission of the spouses' divorce application.

694. Where there is a dispute between the spouses regarding the payment of alimony to a disabled spouse in need or regarding the division of joint property, either spouse may request the dissolution of the marriage by the court. Under article 36 of the Code, in the event of a dispute between the spouses as to the parent with whom their under age children will live or as to the amount of child support, the court must specify, in the dissolution of marriage decision, which child will live with which parent, which parent will pay child support and in what amount.

695. Under the Constitution, the family is protected by the State. The Government manifests its concern for the family by setting up and developing an extensive network of maternity wards, nurseries, day-care centres, boarding schools and other child care establishments or organizations, ensuring the payment of childbirth benefits, providing for allowances and advantages for single mothers and large families, and making available various other family benefits and support.

696. The Social Security Code provides for benefits of the following three types:

- A lump sum childbirth benefit
- A childcare allowance
- A disability allowance.

As of 1 July 2009, the benefits in question increased on the average by 27-28 per cent. The amounts of the childbirth benefit are as follows:

- First and second child - 1.3 x Base value = TMM<sup>9</sup> 143
- Third child - 2.5 x Base value = TMT 275

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<sup>9</sup> Manat, the national currency of Turkmenistan



- Fourth and subsequent children - 5.0 x Base value = TMT 550
- Two increases have been applied to the childcare benefit, namely in the:
  - Amount of the benefit, from TMM 55 to TMM 71.50
  - Duration of the period of eligibility for the benefit, from 1.5 to 3 years.

697. In Turkmenistan, motherhood is surrounded by honour and respect and is protected and encouraged by the State. The interests of the mother and the child are safeguarded through special measures for women's occupational safety and health protection; measures facilitating the reconciliation of work and motherhood; legal protection; and material and moral support for mothers and children, including pregnancy and maternity leaves with pay of the content and other benefits for pregnant women and mothers.

698. All citizens have equal rights in family relations. The law allows no direct or indirect restriction, upon entry into marriage and family relations, on rights on the grounds of origin, social or property status, racial or ethnic affiliation, gender, education, language, attitude to religion, type of occupation, place of residence or other factors.

699. Marriage and family relations are legally regulated solely by the State. Only marriages concluded in population registry offices are recognized. Religious marriage rites have no legal force.

700. Marriages are concluded in population registry offices in the interests of the State and society and for the protection of the individual and property rights and interests of spouses and children. Only marriages concluded in population registry offices generate rights and obligations for the spouses.

701. The mutual consent of the future spouses and their attainment of the minimum age for marriage are required for the conclusion of a marriage. To marry a Turkmen citizen, a foreign citizen or stateless person must have resided in the national territory for at least one year.

702. If either spouse has not attained the minimum age for marriage, the marriage may be declared null and void, if that serves the interests of spouse not having attained that age, at the request of that spouse's parents or guardian or the competent organs of guardianship and trusteeship or the public procurator. If that spouse has reached the minimum age for marriage by the time the matter is examined, then marriage may be declared null and void at his/her or the public procurator's request.

703. If entered into as a result of coercion or fraud, the marriage may be declared null and void at the request of the victim or the public procurator. Marriage is not allowed between

- Persons, at least one of whom is already married
- Direct ascending or descending relatives
- Siblings
- Adopters and adoptee
- Persons, at least one of whom has been declared by court to be legally incompetent on the grounds of mental disorder.

704. Issues related to the education of children and other family life matters are settled by the spouses together. Either spouse is free in choosing an occupation, profession and place of residence.

705. Property acquired by spouses during a marriage is joint property. Spouses have equal rights of possession, use and management of the property. Spouses have equal rights to property even in cases when one of them is occupied in maintaining the domestic household and in caring for children, without an independent source of income.

706. A husband may not without the wife's consent initiate divorce proceedings during her pregnancy or one year after childbirth.

707. Dissolution of marriage is pronounced by a court or in population registry offices.

708. Population registry offices may dissolve a marriage with a person who has been:

- Legally declared missing
- Legally declared legally incompetent on the grounds of mental disorder
- Sentenced to imprisonment for three or more years for the commission of a crime.

709. In the event of a dispute between the spouses regarding the children, the division of joint property, or the payment of alimony to a disabled spouse in need, the marriage is dissolved in court.

710. Parents have a right and an obligation to bring up their children and attend to their health, physical, spiritual and moral development and education, and to prepare them for socially useful employment. Parental rights may not be exercised to the detriment of the interests of the child. In the event of inadequate fulfilment of either parent's obligations in bringing up a child or of abuse of parental rights, the children may seek protection of his/her rights and interests by guardianship and trusteeship bodies.

711. The father and mother have equal rights and responsibilities with regard to their children, including in the case of divorce. All issues related to the education of children are settled by both parents by mutual agreement. In the absence agreement a debatable question is resolved by the organs of guardianship and trusteeship with the participation of parents.

712. Parents living separately from their children must participate in their education and have the right to communicate with them. The parent, with whom the children live, may not prevent the other parent from communicating with the children and participating in their training. If the parents are unable to reach an agreement regarding the participation of the parent living separately in a child's education, the issue is settled by the guardianship and trusteeship bodies in consultation with the parents and in the child's best interests. The guardianship and trusteeship bodies may, for a specific period, deprive the parent living separately from the child of the right to contact the child, if such contact disrupts the child's normal education and adversely affects the child. Where either parent fails to comply with its decision, a guardianship and trusteeship body or the other parent may submit the dispute to a court of law.

713. Guardianship and trusteeship are established for bringing up and protecting the individual and property rights and interests of children left without the parental care as a result of the parents' death, forfeiture of parental rights, disease or other difficulties. Guardianship and trusteeship are also established for the protection of the individual and property rights and interests of adults who, because of their health condition, may not exercise their rights or fulfil their duties on their own. Guardianship is established for children under 15 or persons declared by a court to be legally incompetent on the grounds of mental disorder.

714. As guardians or trustees may not be appointed persons who:

- Are under 18
- Under the procedure established by law, have been declared legally incompetent, fully or partially
- Have been deprived of parental rights
- Have adopted a child but the adoption was cancelled on the grounds of inadequate fulfilment of the adopter's responsibilities

- Have been relieved of guardian or trustee responsibilities on the grounds of inadequate fulfilment of the responsibilities entrusted to them in that capacity.

715. In the case of a child born out of wedlock and in the absence of a joint statement by the parents, paternity may be established through a judicial procedure based on an application by either parent, the child's guardian or trustee, a person taking care of the child, or the child himself/herself upon reaching maturity. To that end, the court considers whether the mother and the male party lived together or shared household responsibilities up to the birth of the child or participated in bringing up the child; whether child support has been provided, or any other evidence of acknowledgement of paternity by the male party exists.

716. Where paternity is established under a procedure laid down in the Marriage and Family Code, the children concerned have the same rights and obligations with respect to their parents and their relatives as do children born in wedlock.

717. The Citizens' health protection Act of 2005 is aimed at strengthening the citizens' constitutional right to the protection of health by confirming that right for the family, pregnant women, mothers and minors.

718. With a view to the exchange of experience and information regarding practices designed to implement the equal opportunities principle in all areas and regarding specific gender issues, the Ministry of Foreign Affairs, TNIDIPC and the United Nations Population Fund (UNFPA) organized, on 14 April 2009, an international conference on "International gender-policy standards". As part of projects carried out by the Government in cooperation with the OSCE centre in Ashkhabad, a seminar was held on 12 October 2009 on "Legal reform and gender issues: Exchange of best practices regarding gender-sensitive legislation".

## Article 24

719. Under article 27 of the Constitution, parents and substitute parents have the right and obligation to raise the children, care for their health, development and education, prepare them for work, and impart to them the culture of respect for the law and for historical and national traditions.

720. Under the Children's Rights Guarantee Act, the State guarantees, for all children residing in the country, equal rights regardless of their or their parents' or statutory representatives' ethnic background, race, sex, language, religion, social origin, wealth, status, education and place of residence, and regardless of the circumstances surrounding the children's birth, the condition of their health or other factors.

721. A child has the right to exercise all of its acknowledged rights and freedoms. The realization of rights and freedoms must not adversely affect a child's life, health, education and overall development. Equal rights for children are enshrined in the country's legislation and other regulatory instruments and are based on universally recognized principles and standards of international law.

722. Since achieving independence, Turkmenistan has acceded to the following instruments on the rights of the child:

- Convention on the Rights of the Child of 20 November 1989
- World Declaration on the Survival, Protection and Development of Children of 30 September 1990
- Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980

- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, of 25 May 2000
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 25 May 2000
- United Nations Convention against Transnational Organized Crime of 15 November 2000
- Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, of 15 November 2000
- ILO Convention No. 138 on Minimum Age for Admission to Employment of 6 June 1973.

723. Every citizen has a constitutional obligation to bring up his/her children. The Marriage and Family Code provides for the parents' obligations and their responsibility to ensure the children's physical development and education; and lays down the legal rules governing the relations between parents and children and the basis for exercising rights and meeting obligations in that area. Parental rights may not be exercised to the detriment of the interests of the child. In the event of inadequate fulfilment of either parent's obligations in bringing up a child or of abuse of parental rights, the children may seek protection of his/her rights and interests by guardianship and trusteeship bodies.

724. Either parent, or both parents, may forfeit parental rights on the grounds of failure to meet their upbringing obligations, including the unjustified omission to retrieve a child from a maternity unit or another treatment, prevention or educational establishments for children; abuse of parental rights; cruel treatment of children; or adverse effect on children as a result of immoral or anti-social behaviour, alcoholism or drug-addiction.

725. Parents must support their minor children and their disabled adult children in need. Parents paying child support may be required to participate in additional expenses necessitated by an emergency (such as severe illness or injury). The amount of such participation is specified by the court, taking into consideration the parents' financial and family situation.

726. A separate section in the Criminal Code deals with the criminal liability of minors in line with the requirements of the Convention on the Rights of the Child and the Covenant. Offenders under 16 incur a significantly reduced liability.

727. Minors are considered to be adolescents who, at the time of commission of the given offence, were older than 14 and under 18. The person concerned is considered to enter a new age year at the beginning of the 24-hour period following the 24-hour period of his/her anniversary.

728. In determining a penalty for a minor, due account is taken of the conditions under which he/she lives, his/her training and mental development, other special characteristics of his/her personality, the motives for the offence, and the influence of adults and others minors on the offender. An offender's minority is considered in conjunction with other mitigating circumstances. An under age offender may incur a penalty or be subjected to compulsory educational measures.

729. The types of penalty that may be imposed on a minor are: a fine, correctional labour or imprisonment.

- (a) A fine;
- (b) Correctional labour;
- (c) Imprisonment.

Fines are imposed only on minor having an independent income and range between 2 and 100 average monthly wages. Correctional labour is imposed, for periods up to one year, only on able-bodied minors having reached the age of 16, at their place of work or, if the minor does not work or receive training, at other places in the minor's area of residence.

730. In the event of deliberate dodging of correctional labour, the court may replace the outstanding balance of correctional labour with imprisonment for a period not exceeding four months.

731. Imprisonment may be imposed on a minor for up to 10 years or, in the case of a particularly grave crime, up to 15 years. Convicts under 18 are assigned to educational labour colonies.

732. In the case of a minor first-time offender having perpetrated a crime of limited or average gravity, the court may not inflict any punishment but impose compulsory educational measures or placement in a special educational or therapeutic educational establishment, provided that the information on the minor's personality and other relevant circumstances indicate that reform without punishment is possible. A minor first-time offender having perpetrated a crime of limited gravity may be exempted from criminal liability, if it is assessed that the minor may be reformed through compulsory educational measures, namely:

- (a) Admonition;
- (b) Placement under supervision by the parents, their substitutes, or internal affairs bodies;
- (c) Obligation to repair the damage caused;
- (d) Restrictions on free time or other specific behaviour requirements.

A minor may be subjected to several concurrent compulsory educational measures, whose duration is determined by the organ imposing the measures.

733. If the minor systematically fails to abide by the requirements accompanying the compulsory educational measures imposed, such measures are cancelled on the basis of a proposal to that effect by the competent authority and proceedings are initiated for confirming the minor's criminal liability.

734. Admonition consists in explaining to the minor the harm caused by his/her act, and the legal consequences of any recidivism under criminal law. Placement under supervision consists in making the persons specified in the Criminal Code responsible for ensuring the minor's education and monitoring his/her behaviour. The obligation to repair the damage caused is imposed taking into consideration the minor's financial situation and work habits. Restrictions on free time may consist in a prohibition to frequent specific places, engage in specific free-time activities, such as riding motorized means of transport means, stay outdoors after a certain time in the evening, or visit other localities without the permission of internal affairs bodies. Moreover, the minor may be required to attend an educational institution or seek employment with the help of the competent authority. This list of possibilities is not exhaustive.

735. A minor sentenced to correctional labour or imprisonment may be released on parole after serving at least:

- (a) One third of the sentence in the case of a crime of limited or average gravity;
- (b) One third of the sentence in the case of a grave crime;
- (a) Two thirds of the sentence in the case of a particularly grave crime.

736. Offenders having committed a crime when still under 18 may be exempted from criminal liability or, under the statute of limitations, from a given penalty by applying time limits half the length of those provided for in the Criminal Code.

737. For offenders having committed a crime when still under 18, the sentences specified in article 81 (2) of the Criminal Code are reduced so as to amount to (from the beginning of the sentence):

- (a) One year for a crime of limited or average gravity;
- (b) Three years for a grave crime;
- (c) Five years for a particularly grave crime.

738. In line with the provisions of international instruments, the Parliament has adopted the Young People's Right to Work Guarantees Act of 1 February 2005, aimed at the strict and exact implementation of the Convention on the Rights of the Child, the Children's Rights Guarantee Act, the Labour Code and other national legislation on young workers' rights, and the provisions of United Nations conventions protecting children against forcible economic exploitation and outlawing situations that might be hazardous, interfere with children's education, be harmful to their health or physical, mental or spiritual development, or interfere with the principle of freedom of thought.

739. The Children's Rights Guarantee Act prohibits employment contracts with adolescents under 16. Upon reaching 15 years of age, a minor may be hired solely on the basis of a written statement of consent by one of the minor's parents or his/her guardian or trustee and on condition that the work will not interfere with the minor's schooling.

740. Employers, regardless of the form of ownership of their enterprise, may not employ under age workers on tasks involving difficult working conditions or on harmful, dangerous or underground jobs.

741. On the basis of Labour Code provisions on the work of young persons:

- Employment contracts with adolescents under 16 are prohibited
- In their legal status at work, workers under 18 enjoy the same rights as adult workers but, in the areas of occupational safety, working hours time, leave and other working conditions enjoy privileges provided under the Labour Code and other labour legislation
- Workers under may not be given hard work or tasks involving difficult working conditions or put on harmful, dangerous or underground jobs. In particular, they may not manually lift or transport weights exceeding standard limits applicable to them.

742. The list of the types of work, involving harmful or dangerous working conditions, which minors may not perform, and the standard weight limits applicable to minors with regard to lifting and transporting are drawn up by the Council of Ministers.

743. Workers under 18 must undergo a medical examination before starting to perform their duties and on a yearly basis thereafter. These obligatory annual examinations are considered time worked and paid at the normal wage rate.

744. Workers under 18 are barred from night work, overtime and work on days of rest, public holidays and memorial days.

745. Production standards for workers under 18 are arrived at by reducing the standards applicable to adult workers in proportion to the shorter working hours applicable to workers under 18.

746. In the cases, to the extent and for periods specified by law, and in agreement with the trade-union committee of the enterprise or the organ representing the workers' association, reduced production standards are set for young workers hired upon graduation from general education schools, vocational training establishments or other courses, or receiving on-the-job-training.

747. Workers under 18 on shorter daily working hours receive the same wages as workers in the respective categories, who work on a full daily schedule.

748. Workers under 18 remunerated on a piece-work rate are paid the same piece-work rate as adults plus an additional time rate to compensate for shorter working hours.

749. Secondary-school and secondary-level vocational training establishment students working on an extra-curricular basis are remunerated in proportion to time worked or production. The enterprise may supplement such students' earning on its own.

750. Workers under 18 may be dismissed by management according to the standard dismissal procedure, only with the consent of the commission for minors' affairs. In some cases specified in the Labour Code, such dismissal may not take place without finding another employment for the minor.

751. Employment contracts with workers under 18 may be cancelled at the request of their parents, foster parents or guardians, guardianship and trusteeship bodies, or other bodies responsible for monitoring compliance with the legislation regarding minors, if continued implementation of the contract threatens the health or violates the legitimate interests of the minor.

752. Turkmen citizenship is an inalienable attribute of national sovereignty, implies that an individual belongs to the State, establishes the legal relations between them and determines all of their mutual rights and responsibilities.

753. A child, at whose birth both of the parents were Turkmen citizens, is a Turkmen citizen whether born in the territory of Turkmenistan or abroad;

754. A child, at whose birth one of the parents was a Turkmen citizen, is a Turkmen citizen:

- If the child was born in the territory of Turkmenistan
- If the child was born abroad but both or one of the parents at that time had a permanent place of residence in the territory of Turkmenistan.

755. Should the parents have different citizenships, one of which at the moment of birth was Turkmen, then, if at that time both parents had a permanent place of residence abroad, the citizenship of the child is determined by written agreement between the parents.

756. A child, one of whose parents at the time of birth was is a Turkmen citizen but the other was a stateless person or is unknown, becomes a Turkmen citizen regardless of the place of birth.

757. Upon establishment of the paternity of a child under 14 whose mother is a stateless person and the father is recognized as a Turkmen citizen, the child becomes a Turkmen citizen regardless of the place of birth. If such a child permanently resides abroad, his/her citizenship is determined on the basis of a written statement by the parents.

758. A child born in Turkmenistan to stateless persons who take up permanent residence in the country is a Turkmen citizen.

759. A child in Turkmenistan, both of whose parents are unknown, is considered born in the country and is a Turkmen citizen. If at least one of the parents or a stepparent or guardian is identified, the child's citizenship may change in line with the Turkmen Citizenship Act.

760. Where there is a change in the parents' citizenship and, as a result, both become Turkmen citizens or both relinquish Turkmen citizenship, the citizenship of their children changes accordingly, if they are under 14.

761. If only one of a child's parents is known, and the citizenship of that parent changes, the citizenship of the child changes accordingly, if the child is under 14.

762. If parents relinquish their Turkmen citizenship and if so wished by both parents, or, if one of them is unknown, by the known parent, their child, if he/she is up to 16 years old, may retain the Turkmen citizenship.
763. Where parents are deprived of parental rights, the citizenship of the children does not change if the parents' citizenship changes.
764. If one of the parents acquires Turkmen citizenship and the other remains citizen of another State, the child may acquire Turkmen citizenship at the parents' joint request.
765. If one of the parents acquires Turkmen citizenship and the other remains a stateless person, the child who lives in Turkmenistan becomes a Turkmen citizen.
766. If one of the parents relinquishes or forfeits Turkmen citizenship and the other remains a Turkmen citizen, the child maintains his/her Turkmen citizenship. At both parents' request, the renunciation of Turkmen citizenship by this child may be accepted.
767. A child who is a citizen of another State or a stateless person and is adopted by Turkmen citizens becomes a Turkmen citizen.
768. A child who is a citizen of another State and is adopted by a couple, in which one spouse is a Turkmen citizen and the other spouse is a stateless person, becomes a Turkmen citizen.
769. A child who is a stateless person and is adopted by a couple, in which one spouse is a Turkmen citizen, becomes a Turkmen citizen.
770. A child who is a citizen of another State and is adopted by a couple, in which one spouse is a Turkmen citizen and the other spouse is citizen of another State, becomes a Turkmen citizen subsequent to a written agreement to that effect between the adopters.
771. If both parents or one of the parents of a child under 14, who lives in Turkmenistan, relinquish or forfeit Turkmen citizenship and are deprived of parental rights, the child maintains his/her Turkmen citizenship at the guardian's request.
772. A child who is a Turkmen citizen and is adopted by citizens of another State maintains his/her Turkmen citizenship if he/she remains in Turkmenistan.
773. A child who is a Turkmen citizen and is adopted by a couple, in which one spouse is a Turkmen citizen and the other spouse is citizen of another State, maintains his/her Turkmen citizenship. In the afore-mentioned cases, at both parents' request, the renunciation of Turkmen citizenship by this child may be accepted. A child who is a Turkmen citizen and is adopted by stateless persons a couple, in which one spouse is a Turkmen citizen and the other spouse is a stateless, maintains his/her Turkmen citizenship.
774. A change in the citizenship of a child aged 14-18 is possible, in the event of a change in the citizenship of the parents or in the event of the child's adoption, solely on the basis of the child's written consent.
775. Mother- and child-related issues are one of the Government's social policy priorities. Accordingly, under the Social Security Code Amendment Act adopted by the Council of Elders and dealing with welfare benefits for children, provides for assistance to young families in the form of an increase in the childbirth through an annual budget allocation exceeding TMM 230 million.
776. Under the law, the birth of a child must be recorded at the population registry office (Civil Registry Office or ZAGS) at the place of birth or the place of residence of at least one parent. Any infant weighing at least 500 gr and gone through a gestation period of at least 22 weeks must be so registered. To that end, the Ministry of Health and the Medical Industry has established a standard "Medical Certificate of Birth" (form No. 103/h), which



is issued, for every live birth, upon the mother's exit from any health establishment where a birth takes place, regardless of whether the establishment contains a maternity ward. With regard to home births, the certificate is issued by the establishment, whose medical worker performed the childbirth. The parents must declare the birth within one month from the date of the birth.

## Article 25

777. Under article 31 of the Constitution, every citizen has the right to participate in managing the affairs of the society and the State, whether directly or through freely elected representatives.

778. Under article 32 of the Constitution, citizens have the right to elect and be elected to the bodies of State authority.

779. Turkmen citizens, in accordance with their abilities and professional training, have equal right to access to public service.

780. Turkmen citizens accede to the right to elect and participate in referendums from the age of 18, regardless of their ethnic background, origin, property, official position, sex, language, education, attitude to religion, political views or party affiliation (article 2 of the: Parliamentary Elections Act, Province People's Council Elections Act, Region People's Council Elections Act, and Local Council Elections Act; and article 3 of the Referendums Act).

781. Citizens declared legally incompetent by a court and those sentenced to imprisonment may not participate in elections.

782. Under the Electoral Rights Guarantees Act of 22 April 1999, the citizens' electoral rights are protected by a system of legislative, legal, economic, organizational and information guarantees.

783. Electoral rights are guaranteed by the Constitution and by Acts which determine the legal status of electoral process participants and govern relations related to the organization, preparation and conduct of elections.

784. Legal guarantees protecting electoral rights consist of measures ensuring their free will and safeguarding the rights in question, enshrined in the law, through, inter alia, judicial protection, personal inviolability of candidates, and other standards and rules aimed at facilitating the citizens' effective participation in elections.

785. The State ensures that the citizens have equal economic and financial possibilities to participate in the election by allocating budget funds to cover the costs of elections preparation and conduct. According to the procedure established by law, participants in the electoral process enjoy the privileges and rewards connected with the exercise of their rights and powers.

786. Organizational guarantees consist in measures taken by State and various public and other organs for, inter alia, defining constituencies and polling districts, forming and activating electoral commissions, preparing voters' lists, facilitating the designation and registration of candidates, conducting of pre-election information campaigns, and organizing the voting and tallying.

787. The electoral process is transparent and accessible to all. The citizens are guaranteed the right to obtain and disseminate information on issues related to the preparation and conduct of elections. To that end, the electoral commissions, State and public bodies and the citizens may use the press, television, the radio and other affordable means of transmitting information.

788. Elections in Turkmenistan are governed by the following basic principles:

- Universal, equal and directly exercised right to vote by secret ballot
- Free and voluntary participation of citizens in the elections
- Equality in designating and equal opportunities for candidates
- Transparency, openness, and the freedom of campaigning for the elections
- Protection of the citizens' electoral rights.

789. Under article 1 of the Referendums Act, a referendum is procedure for the direct participation of the citizens in the exercise of State power through voting. National and local referendums are held for resolving issues of crucial importance to the nation's political and public life.

790. Turkmen citizens who have attained the age of 18 and enjoy voting rights under the law may participate in a referendum. Any direct or indirect restriction of that right is prohibited, except in the cases specifically stipulated by the law.

791. Decisions taken by national referendum are definitive and enforceable throughout the national territory. Decisions taken by local referendum apply to the respective regional administration area and may be repealed or amended only through an analogous referendum.

792. Participation in the referendum is free and voluntary. The voting, a universal, equal and directly exercised right, takes place by secret ballot. Each participant casts one vote. Transparency and community participation prevail, including during the tallying.

793. Turkmen citizens, political parties, public associations and organizations enjoy the guaranteed right to campaign freely "for" or "against" holding a referendum and "for" or "against" the draft legislation or other proposal put to a referendum. No campaigning is allowed on the day of voting.

794. Polling district commissions prepare for the referendum by drawing up voters' lists and resolving related issues, informing citizens of the date of voting, and getting the polling station ready; manage the actual voting; and report the voting results to the local, regional or national commission as appropriate.

795. Voters' lists of citizens are published 10 days prior to the referendum. The district referendum commission informs the citizens of the date and place of voting not later than 15 days prior to the vote. The text of the question, draft law or other decision put to a referendum is displayed at the polling station.

796. Under the Constitution and the Parliamentary Elections Act, in parliamentary elections Turkmen citizens are called upon to vote by secret ballot on alternative platforms through a universal, equal and direct exercise of their electoral rights.

797. Elections are organized on the basis of single-mandate constituencies. In other words, each constituency yields one deputy.

798. The election process is based on the principles of free designation of and equal opportunities for candidates, transparency and openness, and freedom to campaign.

799. The Parliament is elected for a five-year term.

800. Under article 29 of the Parliamentary Elections Act, the submission of candidatures begins 45 days and ends 30 days before the elections. Turkmen citizens attaining the age of 25 by the date of the elections and having resided in the country for the last 10 years may stand as candidates. Persons burdened with outstanding sentences may not put themselves forward.

801. Candidates are nominated by:

- (a) Political parties or public associations registered according to the law;
- (b) Citizens' meetings.

802. Any candidate holding a post which, according to the Constitution, is incompatible with parliamentary mandate must transmit to the district electoral commission a written statement withdrawing his/her candidature or pledging to resign from the post in question if he/she is elected to Parliament.

803. Upon accepting his/her designation in a given constituency, a candidate for Parliament informs the district electoral commission accordingly before the day of candidate registration. In turn, the commission informs the candidate of that date.

804. Under article 69 of the Constitution, a member of Parliament may not concurrently hold the post of a cabinet member, province governor, local council leader<sup>10</sup>, judge, or public procurator.

805. Under the current legislation, foreign citizens may not hold a civil service post or a public elective office or participate in national elections or referendums. Under the State Body Membership Act of 12 June 1997, foreign citizens and stateless persons may be assigned to work in the State machinery as specialists, experts or advisers.

806. Turkmen citizens attaining the age of 25 by the date of the elections and having resided in the country for the last 10 years may stand as candidates for Province People's Councils and the Ashkhabad City People's Council. Persons burdened with outstanding sentences may not put themselves forward.

807. Turkmen citizens attaining the age of 18 by the date of the elections and having resided in the country for the last 10 years may stand as candidates for People's Councils at Region and town level. Persons burdened with outstanding sentences may not put themselves forward.

808. Turkmen citizens attaining the age of 18 by the date of the elections and having resided in the country for the last 10 years may stand as candidates for local councils at town, settlement and locality level. Persons burdened with outstanding sentences may not put themselves forward.

809. Under article 30 of the Constitution, citizens may form political parties or other public associations operating within the framework of the Constitution and the law. The same article prohibits the establishment and activity of political parties, or public paramilitary associations, aimed at altering the constitutional order by violence, engaging in violent acts, opposing the constitutional rights and freedoms of citizens, advocating war, racial, national or religious hatred, or acting in a manner detrimental to the health or morals of the people; and political parties with ethnic or religious attributes.

810. Civil society currently plays a key role in the country's political system. NGOs, public associations, and professional and creative unions actively participate in the formulation of the economic, social and cultural policy of the Government. Turkmenistan's most significant public associations are: The Democratic Party, the Women's Union of Turkmenistan, the Makhtumkuli Young People's Union and the Veterans' Council. Under the law, the Turkmen Humanitarian Association for Peace, trade unions and other NGOs participate in all of the country's elective bodies. Public association members participate in Parliament, local representative bodies and local-Government organs, and are thus directly involved in implementing the country's social, economic and cultural development programmes at the national and regional level.

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<sup>10</sup> Or "archyn" of a "gengesh"

811. Under article 50 of the Constitution, the President of Turkmenistan is the Head of the State and executive power and the highest official. He/she is the guarantor of the country's independence, neutral status and territorial integrity; of respect for the Constitution; and of the fulfilment of international obligations.

812. To stand as a candidate for the office of President of Turkmenistan, one must be a 40-70 years old Turkmen citizen, born in Turkmenistan and speaking the official language, who has uninterruptedly resided in the country for the previous 15 years and worked in public organs, public associations, enterprises, organizations or other establishments. The President of Turkmenistan is elected directly by the people for a five-year term and takes office upon being sworn in. The election of the President of Turkmenistan is governed by the Presidential Elections Act of 26 December 2006. The President of Turkmenistan Act of 28 June 2007 governs the President's inauguration and the legal, economic, organizational and other aspects of the President's activity.

813. In the framework of a joint UNDP and TNIDIPC project launched in 2008 and aimed at strengthening democratic elections processes in the country, the Ministry of Foreign Affairs and TNIDIPC organized forums on "Cooperation in strengthening the national electoral system and processes" on 19 September 2008, on "International standards and building the capacities of electoral commissions" on 27 November 2008 and on "International standards and best practices for elections" on 3 July 2009.

814. The professional activity of State office holders in Turkmenistan is regulated by the Constitution, the Labour Code, the State Body Membership Act and other laws and regulations based on the citizens' equal right to access to civil service in accordance with their abilities and professional qualifications.

815. The Council of Ministers maintains a register of civil service posts. The register, and any amendments or additions to it, are approved by the President of Turkmenistan on the basis of proposals by the Council of Ministers.

816. State apparatus posts may be held by Turkmen citizens who have reached 18 years of age, regardless of their social status, financial situ, race, ethnic origin, sex, attitude to religion and political views. Foreign citizens and stateless persons may be assigned to work in the State machinery as specialists, experts or advisers.

817. Citizens are appointed to the civil service contractually or on another basis by the head of the particular public body in accordance with labour law. Such appointment may proceed through an open competitive examination for filling vacant posts, on the basis of competitive selection regulations approved by the President Turkmenistan. Successful candidates take up their duties in accordance with labour law.

818. Under article 13 of the State Body Membership Act, a candidate may not be appointed to a civil service post if he/she:

(a) Has been declared fully or partially legally incompetent by an enforceable court judgement;

(b) Is a blood or in-law relative (parent, spouse, brother, sister, son, daughter, or spouse's parent, brother, sister or child) of a civil servant hierarchically or operationally linked directly to the post.

819. Civil servants' labour disputes are settled through judicial procedures.

820. Under article 16 of the State Body Membership Act, civil servants may not:

(a) Use their official position, State assets or official information for non-official purposes;

(b) Receive illicit rewards or advantages in performing official duties;

(c) Participate in strikes.

## Article 26

821. Section II (articles 18-47) of the Constitution contains provisions on the human and civil rights and freedoms guaranteed in Turkmenistan. Since achieving independence and becoming a full-fledged member of the international community, Turkmenistan has acceded to the basic United Nations human rights treaties, under which States parties are expected to align their national legislation with the international standards. In 1994, Turkmenistan ratified the International Convention on the Elimination of All Forms of Racial Discrimination, and in 1996 the Convention on the Elimination of All Forms of Discrimination against Women. In line with the international instruments in question, the earlier version of the Constitution's article on equal civil rights regardless of various circumstances has been enhanced. Under article 19 of the new version of the Constitution, Turkmenistan guarantees the equality of human and civil rights and freedoms irrespective of ethnic background, race, gender, origin, wealth, official status, place of residence, language, attitude to religion, political views, party affiliation or lack of an affiliation to any party.

822. Under articles 145 and 154 of the Criminal Code, direct or indirect violations or limitation of human rights and freedoms, and in particular the act of preventing to the realization of the right to freedom of thought and religion, constitute grounds for criminal liability.

823. With regard to the protection of their rights and interests of under age offenders, the Turkmen legislation currently provides for specific safeguards, presented in this report in relation to articles 5 and 14 of the Covenant.

## Article 27

824. Turkmenistan has ratified the International Convention on the Elimination of All Forms of Racial Discrimination of 1965.

825. Under article 14 of the Constitution, Turkmen is the official language of Turkmenistan; and the use of their native language is guaranteed to all citizens of Turkmenistan.

826. Turkmenistan guarantees equal human and civil rights and freedoms, and the equality of all citizens and human beings before the law regardless of ethnic background, race, gender, origin, wealth, official capacity, place of residence, language, attitude to religion, political views, party affiliation or non-affiliation with any party.

827. The Language Act of 1990 guarantees the free development and use of Turkmen as the country's official language; Russian as a means of international communication; and the languages of other peoples living in the national territory.

828. Under article 5 (3) of the Education Act adopted on 15 August 2009, the Government assists Turkmen citizens in the study of their native language.

829. Under article 40 (6) of the Education Act, foreign citizens and stateless persons permanently residing in Turkmenistan may attend the country's educational institutions in accordance with the law and the international agreements concluded by Turkmenistan.

830. Under the Press and other Media Act, the media use Turkmen, Russian and other languages.

831. Article 11 of the Employment Act guarantees protection from any form of discrimination and equal opportunities for all citizens in learning an occupation and finding work and with regard to employment- and working-conditions.

832. Under the Freedom of Religion and Religious Organizations Act, freedom of religion is the citizens' guaranteed constitutional right to profess any religion or none, to express and disseminate views related to the attitude towards religion, and to participate in religious observances, rituals, and ceremonies.

833. No coercion may be applied to a person in connection with his/her attitude to religion and his/her decision to practise or not a religion, to participate or not to participate in worship or religious rites and celebrations or to receive religious instruction. Any direct or indirect restriction on the rights or any privileged treatment of a citizen in relation to his/her religious or atheistic views and any incitement to hostility or hatred or any insult to a citizen in that connection constitute legal grounds for bringing charges in accordance with the law.

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