



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues in relation to the third periodic report of Turkmenistan\*

#### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please describe the measures taken to raise awareness of the Covenant and the Optional Protocols thereto among the public, government officials, judges, lawyers and prosecutors to ensure that its provisions are considered in domestic legal proceedings. Please describe the extent to which provisions of the Covenant have been used as a basis for legislation and invoked or applied by the domestic courts, including examples of relevant legislation and cases. With reference to the Committee's previous concluding observations,<sup>1</sup> and in light of the lack of implementation of the Views adopted by the Committee concerning the State party's violations of the Covenant, please report on any mechanisms in place to implement the Views, and describe the procedures for bringing complaints under the Optional Protocol and any awareness-raising efforts in this respect.

2. With reference to the information provided by the State party,<sup>2</sup> please report on the measures taken to further strengthen compliance by the Office of the Ombudsman with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and to facilitate its accreditation by the Global Alliance of National Human Rights Institutions. In particular, please provide statistical data on cases handled and remedies provided by the Ombudsman during the reporting period, and information on whether the Ombudsman is provided with sufficient financial and human resources to effectively discharge its mandated activities. Please indicate the measures taken to ensure that appointment and dismissal procedures allow for the independence and impartiality of the Ombudsman.

#### Anti-corruption measures (arts. 2 and 25)

3. Please respond to reports of widespread corruption in the State party, especially in the judiciary and in relation to government procurement, and comment on reports of politically motivated anti-corruption investigations and the awarding of government contracts to relatives of government officials. Please provide statistical data on the number of investigations, prosecutions, convictions and other disciplinary measures taken during the reporting period under the State party's anti-corruption legislation, such as the Anti-Corruption Act of 1 March 2014, particularly cases involving corruption by high-level public officials, judges, prosecutors and law enforcement officers and any action taken against them. Please describe the mandates of existing anti-corruption bodies and the steps taken to ensure their independent, impartial and effective operation.

\* Adopted by the Committee at its 134th session (28 February–25 March 2022).

<sup>1</sup> CCPR/C/TKM/CO/2, paras. 5 and 41.

<sup>2</sup> CCPR/C/TKM/3, para. 17.



#### **State of emergency (art. 4)**

4. Please provide information about the measures taken by the State party to address the coronavirus disease (COVID-19) pandemic and about the legal basis for any such measures. Please specify whether any such measures derogate from the State party's obligations under the Covenant. If so, please indicate whether the measures were strictly required by and proportional to the exigencies of the situation and were limited in duration, geographical coverage and material scope, bearing in mind the Committee's statement on derogations from the Covenant in connection with the COVID-19 pandemic,<sup>3</sup> and indicate the mechanisms in place for the oversight of the measures and restrictions.

#### **Non-discrimination (arts. 2, 20 and 26)**

5. With reference to the Committee's previous concluding observations<sup>4</sup> and the information provided by the State party,<sup>5</sup> please update the Committee on the steps taken to adopt comprehensive anti-discrimination legislation that provides full and effective protection against direct, indirect and multiple discrimination in all spheres, including in the private sphere, on all the grounds prohibited under article 26 of the Covenant, including sexual orientation and gender identity, and provides for access to effective remedies in judicial and administrative proceedings for victims of discrimination. Please provide statistical data on complaints of discrimination brought before the domestic courts and any other complaints bodies during the reporting period, and include information on the basis of discrimination, the nature of the investigations conducted and their outcomes, and any forms of redress provided to victims. In light of the information provided by the State party,<sup>6</sup> please describe all the measures taken to combat hate crimes and hate speech, including online hate speech, and include statistics on reported cases of hate crimes and hate speech and their outcomes.

6. With reference to the information provided by the State party,<sup>7</sup> please provide updated information on the steps taken or envisaged to decriminalize sexual relations between consenting adults of the same sex, and on the number of convictions under article 135 of the Criminal Code, during the reporting period. Please report on the measures taken: (a) to eliminate and combat discriminatory attitudes towards lesbian, gay, bisexual, transgender and intersex individuals; and (b) to ensure that all cases of discrimination or violence against persons based on their sexual orientation or gender identity, including cases of police brutality, such as the case of Kasymberdy Garayev, are properly investigated and sanctioned, including information on the outcomes of such cases.

#### **Gender equality (arts. 3 and 25–26)**

7. With reference to the Committee's previous concluding observations<sup>8</sup> and the information provided by the State party,<sup>9</sup> please report on all measures taken: (a) to address women's underrepresentation in decision-making positions and in public and elected office, including any temporary measures taken in this regard and the results achieved; and (b) to eliminate entrenched patriarchal attitudes and stereotypes on the roles and responsibilities of women and men in the family and society at large. Please provide statistical information on women's representation in executive decision-making positions and describe any efforts made to collect disaggregated data with a view to assessing the impact of legislation and policies concerning gender equality.

<sup>3</sup> CCPR/C/128/2.

<sup>4</sup> CCPR/C/TKM/CO/2, para. 7.

<sup>5</sup> CCPR/C/TKM/3, para. 42.

<sup>6</sup> Ibid., para. 31.

<sup>7</sup> Ibid., para. 43.

<sup>8</sup> CCPR/C/TKM/CO/2, para. 11.

<sup>9</sup> CCPR/C/TKM/3, para. 45.

### **Violence against women, including domestic violence (arts. 2–3, 6–7 and 26)**

8. With reference to the Committee’s previous concluding observations<sup>10</sup> and the information provided by the State party,<sup>11</sup> please provide: (a) statistics on the number of complaints, investigations, prosecutions and convictions for all forms of violence against women, including domestic violence and sexual harassment, during the reporting period, including the legal basis for convictions and whether there is specific legislation criminalizing domestic violence; (b) information on the steps taken to encourage the reporting of cases of violence against women and to provide victims with assistance and access to justice, and on the number of shelters available for victims; and (c) any targeted measures taken to protect women from gender-based violence, including domestic violence, during the COVID-19 pandemic.

### **Counter-terrorism measures (arts. 2, 4, 7, 9 and 14)**

9. With reference to the Committee’s previous concluding observations<sup>12</sup> and the information provided by the State party,<sup>13</sup> please update the Committee on the steps taken to clarify the definition of activities that are considered extremist in the State party’s counter-extremism legislation, and ensure that such legislation and its enforcement conform to the principles of legal certainty, predictability and proportionality. In particular, please indicate measures taken to prevent and prohibit the arbitrary arrest and detention of alleged terrorists and extremists. Please also respond to reports that the fight against extremism is used as a justification for restricting international travel.

### **Coronavirus disease (COVID-19) (art. 6)**

10. Please comment on allegations that the State party has neglected to conduct adequate prevention, awareness-raising and public information and protection programmes in response to the COVID-19 pandemic, including a lack of sufficient measures taken to protect health-care workers and individuals whose participation in mass events organized by the Government was mandatory. Please provide accurate statistics on the number of infections and deaths due to COVID-19.

### **Right to life (art. 6)**

11. Please describe the State party’s current legal framework governing the use of force and discuss its compatibility with the Covenant and with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (2020).

12. With reference to the Committee’s previous concluding observations,<sup>14</sup> please provide further information on investigations into cases of incommunicado detention and enforced disappearance of convicted and imprisoned persons, including those convicted for alleged involvement in the assassination attempt on the former President in November 2002. Furthermore, please provide detailed information on the reported disappearance, closed trials and secret detention of Pygambergeldy Allaberdyev, Gulgeldy Annaniyazov and Omriuzak Omarkulyev.

### **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (art. 7)**

13. With reference to the Committee’s previous concluding observations (paras. 19 and 21),<sup>15</sup> please provide updated information on the legislative and other measures taken to ensure that torture cannot be justified under any circumstances whatsoever and that confessions made under torture are inadmissible in criminal proceedings. Please provide

<sup>10</sup> CCPR/C/TKM/CO/2, para. 13.

<sup>11</sup> CCPR/C/TKM/3, paras. 65–66 and 70.

<sup>12</sup> CCPR/C/TKM/CO/2, para. 15.

<sup>13</sup> CCPR/C/TKM/3, para. 73.

<sup>14</sup> CCPR/C/TKM/CO/2, para. 17.

<sup>15</sup> Ibid., paras. 19 and 21.

information on: (a) the widespread practice of torture and ill-treatment, with continued impunity, of persons deprived of liberty, particularly human rights defenders, journalists, political dissidents and conscientious objectors held in labour camps, including detailed information on the cases of Gaspar Matalaev and Mansur Mingelov; (b) statistical data on the number of complaints lodged regarding torture and ill-treatment and information on the investigations conducted into these complaints, their outcomes and the remedies provided to victims, during the reporting period; and (c) any investigations conducted into deaths in custody owing to torture and ill-treatment, inhumane detention conditions and denial of medical services, the outcomes of such investigations, and the remedies provided to victims, including Eziz Hudayberdiev and Ogulsapar Muradova.

#### **Liberty and security of person (art. 9)**

14. With reference to the Committee's previous concluding observations,<sup>16</sup> please indicate the measures taken to ensure that domestic legislation provides for fundamental legal safeguards for detained persons, including the right to have prompt access to a lawyer, as provided in the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, the right to notify their relatives or a person of their choice about their detention and the right to be brought within 48 hours before a judge or other officer authorized by law to exercise judicial power, and that these safeguards are fully respected in practice. Please comment on continuing reports of the arbitrary arrest and detention of dissenting journalists, human rights defenders, members of religious groups, and political dissidents, such as Khursanay Ismatullayeva.

#### **Treatment of persons deprived of their liberty (arts. 7 and 10)**

15. With reference to the Committee's previous concluding observations<sup>17</sup> and Views adopted by the Committee in this respect, please describe the existing mechanism for monitoring the conditions in places of detention and indicate any steps taken or envisaged to establish a system of regular and independent monitoring of places of detention without prior notice and an independent mechanism to promptly, thoroughly and impartially investigate all complaints by detainees. Please provide information on the efforts made to improve the material conditions of detention in prisons and pretrial detention facilities, especially in the Ovadan Depe maximum-security prison and labour camps where conscientious objectors are held, and include statistics on the number of persons detained in each facility and its occupancy rate.

16. Please report on measures taken to ensure the provision of adequate health-care services to detainees and to protect them from contagious diseases, particularly in the context of the COVID-19 pandemic, and discuss how authorities responsible for the detention system have responded to the pandemic, including information on the possibility for detainees to be transferred to hospitals and be properly treated. Please provide information about the impact of measures related to COVID-19 on detention conditions, including a ban on visitation.

#### **Elimination of slavery, servitude and trafficking in persons (arts. 2, 7–8, 24 and 26)**

17. With reference to the Committee's previous concluding observations<sup>18</sup> and the information provided by the State party,<sup>19</sup> please comment on reports of persisting use of forced labour in the cotton sector and other public works projects, particularly under coercion or threats of dismissal from employment or expulsion from educational institutions. Please provide statistics on investigations into cases of trafficking, including for the purposes of sexual exploitation, and labour exploitation, particularly in relation to forced labour in the cotton sector, including data on the sanctioning of perpetrators and remedies provided to victims. Please report on the efforts made to enhance the availability and accessibility of shelters and other protection services for victims of trafficking and provide statistical data in this regard.

<sup>16</sup> Ibid., para. 25.

<sup>17</sup> Ibid., para. 23.

<sup>18</sup> Ibid., para. 27.

<sup>19</sup> CCPR/C/TKM/3, para. 99.

### **Right to freedom of movement (arts. 9, 12, 17 and 19)**

18. With reference to the Committee's previous concluding observations<sup>20</sup> and the information provided by the State party,<sup>21</sup> please elaborate on the steps taken to ensure that the mandatory residence registration system (*propiska*) does not restrict the right to freedom of movement within the country or any other rights protected under the Covenant. Please comment on reports of arbitrary international travel bans under the Migration Act, including concerning independent journalists, human rights defenders, including those advocating women's rights, and dissidents, and provide statistical information on the number of individuals banned from traveling abroad and the legal grounds for such bans. Please indicate how the border closure in March 2020 in response to the COVID-19 pandemic has affected the right to freedom of movement and respond to reports of the authorities' refusal to renew passports of its citizens residing abroad.

### **Access to justice, independence of the judiciary and fair trial (art. 14)**

19. With reference to the Committee's previous concluding observations<sup>22</sup> and the information provided by the State,<sup>23</sup> please indicate the measures taken to revise the procedures and criteria for the selection, appointment, promotion, suspension, disciplining and removal of judges with a view to guaranteeing the full autonomy, independence and impartiality of the judiciary. Please respond to reports that the authorities often violate due process guarantees set forth under article 14 of the Covenant, including the presumption of innocence. Please also describe any existing legal aid scheme in the State party and provide information on the number and types of cases in which free legal aid has been sought, granted and denied during the reporting period.

### **Right to privacy (art. 17)**

20. With reference to the Committee's previous concluding observations<sup>24</sup> and the information provided by the State party,<sup>25</sup> please indicate the legal safeguards applied to the State party's surveillance regime and any existing independent oversight mechanisms in this regard. Please comment on allegations that the authorities engage in targeted surveillance of journalists, human rights defenders, such as human rights activist Natalia Shabunts and journalist Soltan Achilova, and individuals who interact with foreigners and/or have families abroad. Please report on any investigations conducted into these cases, their outcomes and the remedies provided to the victims.

### **Right to freedom of conscience and religious belief (art. 18)**

21. With reference to the Committee's previous concluding observations<sup>26</sup> and the information provided by the State party,<sup>27</sup> please comment on continuing reports of restrictions on freedom of conscience and religious belief, including: (a) mandatory registration of religious organizations, obstacles to registration and denial of registration of religious minority communities; (b) cases of raids, harassment, intimidation and imprisonment of members of religious minority communities, particularly Protestants and Jehovah's Witnesses, including information on statistics and the outcomes of such cases; and (c) restrictions on religious education and on the importation and distribution of religious literature.

22. With reference to the Committee's previous concluding observations,<sup>28</sup> please report on any steps taken or envisaged to recognize the right to conscientious objection to compulsory military service and to provide alternatives to military service, as previously also

<sup>20</sup> CCPR/C/TKM/CO/2, para. 29.

<sup>21</sup> CCPR/C/TKM/3, paras. 104–110.

<sup>22</sup> CCPR/C/TKM/CO/2, para. 31.

<sup>23</sup> CCPR/C/TKM/3, paras. 111–113.

<sup>24</sup> CCPR/C/TKM/CO/2, para. 37.

<sup>25</sup> CCPR/C/TKM/3, paras. 123–128.

<sup>26</sup> CCPR/C/TKM/CO/2, para. 39.

<sup>27</sup> CCPR/C/TKM/3, paras. 129–135.

<sup>28</sup> CCPR/C/TKM/CO/2, para. 41.

recommended in the Views adopted by the Committee. Please provide statistics for the reporting period on the number of cases involving conscientious objectors to military service and prosecutions and convictions of such individuals, including information on repeated punishment of these individuals, in violation of article 14 (7) of the Covenant, which prohibits repeated punishment for the same offence. Please provide information on steps taken to expunge past convictions under article 219 (1) of the Criminal Code for conscientious objection to military service occurring after the Covenant came into force for the State party.

#### **Freedom of expression (arts. 19–20)**

23. With reference to the Committee's previous concluding observations<sup>29</sup> and the information provided by the State party,<sup>30</sup> please comment on reports of the absence of genuine independent media outlets, restricted access to the Internet and the continuing practice of removing private satellite dishes. Please respond to allegations of harassment, intimidation and attacks against and the arbitrary arrest and detention of journalists, human rights defenders, political dissidents and their family members, including the cases of Soltan Achilova and Nurgeldi Halykov, and also in the context of the COVID-19 pandemic, including the case of Murat Dushemov. Please elaborate on the investigations conducted into such cases and on any remedies provided to victims.

#### **Right of peaceful assembly (art. 21)**

24. With reference to the Committee's previous concluding observations<sup>31</sup> and the information provided by the State party,<sup>32</sup> please provide updated information on the steps taken or envisaged to ensure that domestic legislation on peaceful assembly, including the 2015 Organization and Conduct of Gatherings, Meetings, Demonstrations and Other Mass Events Act, is fully in line with article 21 of the Covenant and the Committee's general comment No. 37 (2020) on the right of peaceful assembly. Please respond to reports of: (a) broad discretion granted to authorities concerning public assemblies, leading to a lack of exercise of the right of peaceful assembly for fear of reprisals; and (b) the continued practice of coercing individuals to participate in mass events organized by the Government.

#### **Freedom of association (art. 22)**

25. With reference to the Committee's previous concluding observations<sup>33</sup> and the information provided by the State party,<sup>34</sup> please respond to reports of restricted freedom of association, including through: (a) the unreasonable and burdensome legal and administrative requirements for the registration of non-governmental organizations; and (b) frequent rejections of registration applications. Please discuss the compatibility with the Covenant of the amended Public Associations Act and internal regulation decree No. 1391 of 2 October 2020 on the Public Associations Act and the Freedom of Religion and Religious Organizations Act.

#### **Participation in public affairs (arts. 25–26)**

26. With reference to the Committee's previous concluding observations<sup>35</sup> and the information provided by the State party,<sup>36</sup> please report on the measures taken to ensure the holding of free, reliable and transparent elections, including information on the role of the Central Election Committee in this respect and steps taken to ensure its independence and impartiality. Please indicate the steps taken to address concerns relating to the absence of fully transparent and genuine elections and of genuine political pluralism. With reference to

<sup>29</sup> Ibid., para. 43.

<sup>30</sup> CCPR/C/TKM/3, paras. 137–144.

<sup>31</sup> CCPR/C/TKM/CO/2, para. 45.

<sup>32</sup> CCPR/C/TKM/3, para. 145.

<sup>33</sup> CCPR/C/TKM/CO/2, para. 47.

<sup>34</sup> CCPR/C/TKM/3, paras. 146–147.

<sup>35</sup> CCPR/C/TKM/CO/2, para. 49.

<sup>36</sup> CCPR/C/TKM/3, paras. 150–152.

the Committee's previous concluding observations,<sup>37</sup> please clarify whether all prisoners serving their sentences are denied the right to vote.

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<sup>37</sup> CCPR/C/TKM/CO/2, para. 51.