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Turkmenistan

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1. (A) Introduction

1.1. CIVICUS: World Alliance for Citizen Participation is an international movement with members and partners in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened. CIVICUS seeks to amplify the voices and opinions of ordinary people. For effective and sustainable civic participation to occur, citizens must enjoy rights of free association and be able to engage all sectors of society. CIVICUS is an accredited NGO member of UN ECOSOC.

1.2. In this document CIVICUS: World Alliance for Citizen Participation provides information on freedoms of assembly and association in Turkmenistan under section B and D:

- Under section B, CIVICUS focuses on the issues of concern in the legislation of Turkmenistan pertaining to the freedoms of assembly and association as basic rights for civil society.
- In section D, CIVICUS makes a number of recommendations in the areas of concerns listed.

2. (B) Normative and institutional framework for the promotion and protection of human rights

2.1. Freedom of Peaceful Assembly

In Turkmenistan, the right to gather and hold protests and demonstrations in a lawful manner is constitutionally guaranteed. No specific constitutional restrictions have been placed on the freedom of assembly although there is a general condition that the exercise of rights and freedoms should not violate the rights and freedoms of other people, moral demands or social order, or harm national security. The constitution envisages suspension of the rights and freedoms of citizens only in a state of emergency or martial law. The primary legislation on the

freedom of assembly is represented by the Provisions on the Procedure of Organisation and Carrying Out of Assemblies, Meetings, Street Processions and Demonstrations approved by the Decree of The Supreme Council of the Turkmen SSR November 15 1988 No 1331-XI (hereinafter “the provisions”). The provisions are rather brief. .

2.2. Before carrying out an assembly, meeting, street procession or demonstration, it is necessary to submit an application to the local administrative authorities at least ten days prior to the scheduled date of the event. The purpose, the form, place of carrying out of activities or routes of movement, time of start and finish, the expected number of participants, the names and addresses of the representatives and organisers must be submitted in the application. CIVICUS is of the opinion that the requirement to submit an application 10 days prior to holding an event is unduly long and constitutes an impediment to holding spontaneous demonstrations on matters of urgent public interest. Furthermore on the receipt of an application, the authorities can alter the place, time and other conditions of the assembly, meeting, street procession or demonstration in view of public order requirements and requirements relating to the regular work of enterprises, institutions and organisations, and the rights and legal interests of citizens. The decision of the authorities to disallow an assembly can be appealed to a higher executive or administrative body whose decision is final. Declaring that the decision of the executive authorities is final, thereby excluding the jurisdiction of the courts, amounts to arbitrary and unreasonable interference with the freedom to assemble peacefully.

2.3. The provisions mandate that an application to hold an assembly cannot be accepted from a citizen younger than 18 years of age. This directly breaches Article 15 of the Convention on the Rights of the Child (CRC). Turkmenistan is a party to the CRC and has not entered reservation in respect of the said convention which duly guarantees to children the freedom to assemble peacefully.

2.4. The provisions mandate that assemblies, meetings, street processions or demonstrations may be stopped on demand of the authorities on the occurrence of danger to the life and health of citizens or breach of public order. They also may be stopped if prior permission has not been sought from the authorities or permission to hold them has been refused or the regular work of enterprises, institutions and organisations, transport and other services is disrupted. Notably, there is no provision to permit the continuance of the assembly if the participants suspend the offending actions or behaviour.

2.5. Freedom of Association

The right to form political parties and other public (citizen) associations is constitutionally guaranteed.

2.6. The Law on Public [Non-governmental] Associations governs the registration and operation of public associations which are defined as voluntary self governing non-profit entities established at the initiative of citizens who come together on the basis of shared interests to pursue shared goals in the charter of the public association. Trade unions and political parties are excluded from the ambit of the law. But in practice, because there is no

specific law on trade unions, they are being governed under the Law on Public [Non-governmental] Associations.

2.7. Although the Law on Public [Non-governmental] Associations asserts that there will be no interference by government bodies and officials in public associations' activity, it also prohibits interference by public associations in the activities of governmental bodies and officials. Existence of such a provision serves to restrict the possibility of offering legitimate criticism to official policies as it may be construed as illegal interference.

2.8 Notably, public associations are required to give advance notice to the Ministry of Justice about the dates of scheduled events and allow representatives of the ministry access to these events. This constitutes an unwarranted encroachment on their autonomy and independence.

4. (D) Identification of achievements, best practice, challenges and constraints

4.1. CIVICUS urges Turkmenistan, as a signatory to the ICCPR to guarantee core civil society freedoms to express, associate and assemble under the law.

4.2. Regarding freedom of assembly: the law should be amended to allow

- Spontaneous assemblies
- Prevent disruption of assemblies on insubstantial grounds
- Children the freedom to assemble

4.3. Regarding freedom of association the law should be amended to

- Prevent arbitrary interference in the work of civil society organisations. Also to ensure that legal rights are guaranteed in practice.