

Turkmenistan

Mid-term Implementation Assessment



UPR-INFO.ORG
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW

Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also more specifically to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC).

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are willing to follow and implement their commitments: civil society should monitor the implementation of the recommendations that States should implement.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 23 January 2012 (updated)

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/turkmenistan>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports and the unedited comments as well can be found at that very internet address.

15 NGOs were contacted. Both the Permanent Mission to the UN in Geneva and the State were contacted. No domestic NHRI does exist.

3 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

IRI: 12 recommendations are not implemented, 3 recommendations are partially implemented, and 0 recommendations are fully implemented. No answer was received for 72 out of 87 recommendations.

2. Feedbacks on recommendations

Recommendation n°6: *Eliminate all impediments to freedom of religion and belief at juridical and administrative levels, and put an end to the intimidation of members of religious communities.* (Recommended by Belgium)

IRI: not implemented

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Recommendation n°40: *Take measures to grant effective and unhindered enjoyment of the freedom of religion.* (Recommended by Germany)

IRI: not implemented

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Recommendation n°45: *Adopt adequate measures for the protection and promotion of religious freedom, in order to ensure effective freedom of worship for all religious communities.* (Recommended by Italy)

IRI: not implemented

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Recommendation n°1: *Ensure the full and effective implementation of the Constitution to deliver the better enjoyment of human rights for the people of Turkmenistan.* (Recommended by United Kingdom)

IRI: *not implemented*

Forum18 response:

No evidence of any willingness to end violations, eg. In 2011 jailing of two more conscientious objectors and imposition of heavy fines for meeting for worship.

Recommendation n°16: *Remove constraints on civil society groups and human rights defenders.* (Recommended by Canada)

IRI: *not implemented*

Forum18 response:

No evidence of any willingness to end violations against eg. religious groups, as heavy fines imposed for meeting for worship.

Recommendation n°19: *Abolish the system of registration for nongovernmental organizations working in the country.* (Recommended by Canada)

IRI: *partially implemented*

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Recommendation n°46: *Comply with its international obligations for the exercise of freedom of expression, ensuring the right to seek receive and impart information and ideas, including by electronic means and from foreign sources, and to act against any form of harassment and intimidation of journalists.* (Recommended by Italy)

IRI: *partially implemented*

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Recommendation n°56: *Strengthen measures to promote freedom of association and take measures to guarantee the full exercise of the right to freedom of expression, including the right to access to public information by civil society organizations and individual citizens.* (Recommended by Mexico)

IRI: *partially implemented*

Earth Justice response:

Earthjustice made a submission on Turkmenistan focusing on its 2003 law "On Public Associations". This law restricted the right of association and has serious potential consequences for people working to protect human rights and the environment.

The public associations law introduced a series of restrictions on registered organizations, including their legal status, legal capability, and possibilities to carry out publicly beneficial activity. It also introduced a direct ban on activities of unregistered associations of citizens in Turkmenistan.

Recommendations to the State of Turkmenistan under review

In addition to all the human rights instruments ratified, Turkmenistan is also a party to the regional convention on environmental rights, known as the Aarhus Convention (adopted in Denmark in 1998).

Earthjustice recommended that the Human Rights Council, in addition to the universal treaty bodies, take into consideration the concerns of both the Aarhus Compliance Committee and the Meeting of the Parties of the Aarhus Convention

about the infringement of the right of association contained in the law, and its consequences for the rights and freedom of the people of Turkmenistan.

Earthjustice also called upon the HRC to recommend to Turkmenistan to open itself to visits of Special Procedures and of the Aarhus Compliance Committee.

The Council did take into consideration the concerns expressed by the bodies of the Aarhus Convention. Nevertheless, Earthjustice regrets that the Council did not make explicit reference to decisions of the bodies of the Aarhus Convention dealing with environmental rights.

In its fourth session in Chisinau, Moldova, from 29 June to 1 July 2011, the Meeting of the Parties of the Aarhus Convention took a new decision on compliance by Turkmenistan to its obligations under the Convention:

- It noted the recent engagement of Turkmenistan, demonstrated by its cooperation with the Committee, in particular with respect to the mission by members of the Committee and the secretariat to Ashgabat on 18–20 April 2011;
- It decided to suspend the caution issued to Turkmenistan concerning decision III/6e, which had entered into effect on 1 May 2009;
- It warned that the caution will re-enter into effect on 1 January 2013 unless Turkmenistan amends the Act on Public Associations with a view to bringing all of the provisions of the law into compliance with the Aarhus Convention, as requested by the Meeting of the Parties through paragraph 2 of decision II/5c, and has notified the Secretariat of this fact by 1 October 2012.

Therefore, we conclude that Turkmenistan has made some preliminary steps for the implementation of the UPR recommendations, but has not yet fulfilled them. This issue must be thoroughly reviewed in the second cycle.

Recommendation n°57: *Reform the registration process to make it easier for organizations to register and work freely.* (Recommended by Netherlands)

IRI: *not implemented*

Forum18 response:

No evidence of any willingness to end severe restrictions on registration of eg. religious groups, nor to allow people to meet without registration.

Earth Justice response:

See recommendation n° 19.

Recommendation n°61: *Guarantee the rights to freedom of expression and Covenant on Civil and Political Rights and thus ensure that the media are able to operate without interference.* (Recommended by Norway)

IRI: *not implemented*

Forum18 response:

No evidence of any willingness to allow freedom of expression on eg. religious matters.

Recommendation n°63: *Revoke any existing travel bans on human rights defenders and to guaranty the rights to freedom of expression and information of its citizens, in conformity with article 19 of the Covenant, and thus ensure that the media is able to operate without interference.* (Recommended by Norway)

IRI: *not implemented*

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Recommendation n°64: *Take effective measures to allow independent non-governmental organizations to register and work freely.* (Recommended by Poland)

IRI: *not implemented*

Forum18 response:

Exit blacklist against human rights defenders and independent civil society (eg. Religious) activists continues.

Recommendation n°72: *Recognize conscientious objection to military service in law and practice and stop prosecuting, imprisoning and repeatedly punishing conscientious objectors.* (Recommended by Slovenia)

IRI: *not implemented*

Forum18 response:

No evidence of any willingness to end imprisonment of conscientious objectors, eg. in 2011 jailing of two more conscientious objectors.

Recommendation n°74: *Intensify its efforts and take appropriate measures to guarantee the right of opinion, freedom of expression and freedom of assembly.* (Recommended by Sweden)

IRI: *not implemented*

Forum18 response:

No evidence of any efforts to guarantee freedom of opinion, expression and assembly, eg. in 2011 violations continue with imposition of heavy fines for meeting for worship.

Earth Justice response:

See comment to recommendation n°19.

Recommendation n°83: *Do more to promote and protect freedom of religion or belief, including by safeguarding personal access to, and use and ownership of, religious literature and materials.* (Recommended by United Kingdom)

IRI: *not implemented*

Forum18 response:

No evidence of any willingness to end violations, eg. In 2011 strict censorship continues, jailing of two more conscientious objectors and imposition of heavy fines for meeting for worship.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted both the delegate who represented the State at the UPR and the Permanent Mission to the UN in Geneva or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we consider positive feedbacks from the latter.

A. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, communication is split up among recommendations we think it belongs to. Since such a task opens the way of misinterpretation, we strongly encourage using the Excel sheet.

If the stakeholder does not clearly mention neither the recommendation was “fully implemented” nor “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

While we do not mention recommendations which were not addressed, they can be accessed on the follow-up webpage.

B. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index** (IRI) is an individual recommendation index. Its purpose is to show both disputed and agreed recommendations.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is noted as 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review says the recommendation has been fully implemented and a stakeholder says it has been partially implemented, score is 0.75.

Then the score is transformed into an implementation level, according to the table hereafter:

| Percentage: | Implementation level: |
|-------------|-----------------------|
| 0 – 0.32 | Not implemented |
| 0.33 – 0.65 | Partially implemented |
| 0.66 – 1 | Fully implemented |

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

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