



Office for Democratic Institutions and Human Rights

**TURKMENISTAN**  
**PRESIDENTIAL ELECTION**  
**11 February 2007**

**OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT**

7-10 January 2007



Warsaw  
18 January 2007

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**Turkmenistan  
Presidential Election  
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**OSCE/ODIHR Needs Assessment Report**

**I. INTRODUCTION**

On 21 December 2006, the President of Turkmenistan, Mr. Saparmurat Niyazov, passed away. On 26 December, in line with its constitutional obligations, the People's Council of Turkmenistan (Khalk Maslakhaty, PCT) determined that presidential elections will be conducted on 11 February 2007. President Niyazov had led Turkmenistan since 1985, during the last years of the Soviet era, and since 27 October 1991 as President of independent Turkmenistan.

Although in its announcement of the 11 February presidential election, the PCT indicated that international observers could attend the election, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has not yet received an official invitation.

On 29 December, the Director of OSCE/ODIHR sent a letter to the Minister of Foreign Affairs of Turkmenistan indicating that the OSCE/ODIHR had an interest to conduct a Needs Assessment Mission (NAM) to Turkmenistan in the period 7-10 January, to assess modalities for a possible OSCE/ODIHR observation role for the 11 February election.

Following indications from the Minister that such a mission would be welcome, the OSCE/ODIHR deployed a NAM comprising of Mr. Gerald Mitchell, Head of the Election Department, and Mr. Nikolai Vulchanov, Senior Expert. On 8 and 9 January, the NAM conducted meetings with representatives of the authorities, the resident international community and two of the six registered candidates.

The OSCE/ODIHR wishes to express its appreciation to the authorities of Turkmenistan and the OSCE Center in Ashkhabad for their cooperation in facilitating the NAM.

**II. EXECUTIVE SUMMARY**

On 21 December 2006, the President of Turkmenistan, Mr. Saparmurat Niyazov, passed away. On 26 December, during an extraordinary meeting, the PCT fulfilled its constitutional obligations scheduling a presidential election for 11 February 2007. The PCT indicated, *inter alia*, that international observers could attend the election.

The 11 February presidential election in Turkmenistan is the first to be contested by more than one candidate. Under a specific new presidential election law (PEL), candidates should enjoy equal treatment during the campaign. While these new developments are welcome indications of a recognition that the electoral process serves as the basis for democratic governance, and merit support, they are no

guarantee for a competitive election to be conducted in line with the 1990 OSCE Copenhagen Document.

Six candidates including the Acting President were elected by the PCT, out of a total of eleven PCT nominations. Subsequently, all six were registered by the CEC. All candidates are only from the Democratic Party of Turkmenistan (DPT), the only registered party in the country. This raises concerns about the competitive and pluralistic nature of the campaign, and the issue of a separation between the State and political parties, and the campaigns of candidates. No individuals who identify themselves as political opposition, and mostly reside outside Turkmenistan, were nominated as candidates.

The NAM was able to meet two of the six registered candidates in the presence of the Chairman of the CEC. At the time of the NAM, the candidates were conducting meetings with voters across the country. The CEC is channeling all logistical and financial support to the candidates to enable their campaigns. Both candidates expressed satisfaction with the way the campaign has been conducted so far. The Acting President has offered his free airtime to be shared by the remaining five candidates.

While the new PEL meets a number of OSCE Commitments for democratic elections, there is room for substantial improvement, in particular in the areas of the right of citizens to stand as candidates and the rights of candidates. Inquiring about the background of these limitations, the NAM was informed that they reflect constitutional provisions as well as historical and cultural traditions to consult the Elders and make consensual decisions.

The NAM considers that it is not possible, due to time limitations, to deploy a standard OSCE/ODIHR Election Observation Mission (EOM) for the 11 February election. In view of the current signals of improvement demonstrated by a number of positive elements in the new PEL, as well as the support of the authorities with regard to the conduct of the current NAM in the restricted timeframe available, the OSCE/ODIHR considers it appropriate to recommend the deployment of a team of experts to follow the election, albeit in a compressed timeframe. In addition to following the process, the expert team could support reporting of the OSCE Center in Ashkhabad through its standard OSCE reporting channels. Such a modality could also enable providing the authorities with initial feedback regarding the framework for elections, thus providing a starting point for dialogue on the conduct of elections in line with OSCE commitments.

### **III. FINDINGS**

#### **A. BACKGROUND**

Turkmenistan declared independence on 27 October 1991, following a referendum conducted on 26 October, in which 94.1 percent of the votes were reportedly cast for independence<sup>1</sup>. On 21 December 1991, Turkmenistan signed the Almaty Declaration

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<sup>1</sup> The EUROPA World Year Book 2002, Volume II; Europa Publications, Taylor & Francis Group; London and New York, 2002, p.3993-4007.

becoming one of the 11 member States of the Commonwealth of the Independent States (CIS). On 26 August 2005, Turkmenistan discontinued permanent membership in the CIS to become an associate member. Turkmenistan joined the OSCE on 30 January 1992 and signed the Helsinki Final Act on 8 July 1992.

The late President of Turkmenistan has led the country since 1985, initially as the first secretary of the Turkmenistan branch of the Communist Party of the former Soviet Union, and since 1991 as the President of independent Turkmenistan. He also held the position of Chairman of the DPT, the successor of the Turkmenistan branch of the Communist Party of the former Soviet Union as of October 1991.

President Niyazov ran, unopposed, in the 1990 and 1992 presidential elections which he won with reported 98.3 and 99.5 percent of the votes cast respectively. Following a proposal of senior DPT members in 1993, the presidential election anticipated for 1997 was cancelled and the Parliament (the Mejlis) voted to extend the President's term to 2002. This was confirmed in a referendum held on 15 January 1994, with a reported majority of 99.99 percent. On 28 December 1999, the PCT took the decision to make Niyazov President-for-life. This decision was confirmed on the same day by the adoption of a separate constitutional law. The Constitution was not consequently amended.

The current Constitution was adopted on 18 May 1992, and has been amended on a number of occasions. According to the Constitution, Turkmenistan is a presidential republic. The President is the Head of State and the Chairperson of the Cabinet of Ministers, and enjoys vast powers. The legislative power is exercised by the Mejlis, which comprises 50 members elected for five year terms. Elections for the Mejlis were conducted in 1994, 1999 and 2004. It would appear that there is no publicly available statistics on the outcome of these elections.

The Constitution established the PCT as the supreme representative body of popular power (Art. 45). The role of "speaker" of the PCT is conducted either by the President or one of its members, elected for this specific purpose. The PCT is convened by the President, the Mejlis, the Chairperson of the PCT or on the initiative of one third of its members. The membership of the PCT amounts to 2507 individuals, some of which are elected officials, others are members *ex officio*, and still others are delegated members.

The DPT remains the only political party registered in Turkmenistan to date. There have been a few attempts to set up parties in opposition or as alternatives to the DPT; none of which has proved successful. In September 1989, intellectuals registered a popular front, the Agzybirlik, with stated objectives similar to those of the popular movements that emerged elsewhere during the 1990's. However, it was banned as early as January 1990. Another attempt for setting up organized political opposition occurred in August 1996, when representatives of unregistered parties reportedly met with a view to form a social democratic party. In a separate development, the President announced in late 1993, that a second party could be permitted to register, the Peasants' Justice Party. However, this intention never materialized; moreover, after becoming a President for life, Mr. Niyazov was reported to have announced that creation of opposition parties would not be contemplated before 2010. On a number

of other occasions, after dismissals or defections from Turkmenistan, former high level state officials have declared themselves as opposition.

## **B. POLITICAL CONTEXT**

President Niyazov died on 21 December 2006. At the time of his death, the Constitution stipulated that if the President was not capable of carrying out her or his duties, until the election of a new President, her or his powers should be transferred to the Chairperson of the Mejlis. In such a situation, presidential elections should be held no later than two months from the day of the transfer of powers to the Chairperson of the Mejlis. A person carrying out the duties of the President might not be nominated for the position of the President. The right to call the presidential elections is vested with the PCT. There was no specific law on the presidential election, although Article 54 of the Constitution provided for such a law.

On 21 December, the Cabinet of Ministers and the National Security Council (NSC) held joint emergency sessions, where the Deputy Chairman of the Cabinet of Ministers, Mr. Kurbanguly Berdymukhamedov, was appointed the Acting Head of the State and Commander-in-Chief of the Armed Forces of Turkmenistan. He was appointed to act as Head of State for up to two months, the period of time within which a new president must be elected. The Chairperson of the Mejlis, Mr Ovezgeldy Ataev, was barred from exercising his constitutional right to assume the duties of Acting Head of State as the General Prosecutor's Office filed a criminal case against him. His dismissal was formalized in the course of an extraordinary session of the Mejlis on 22 December, where a special law was adopted in this regard. On 26 December, he was also relieved of his position as the Deputy Chairperson of the PCT by a resolution of the PCT.

During its meeting on 26 December the PCT (1) approved a constitutional law to amend the Constitution; (2) approved a new presidential election law (PEL); (3) amended the composition of the Central Election Commission; (4) set the date for the presidential elections for 11 February 2007; (5) nominated and approved candidates for the President of Turkmenistan; (6) set the date for the next convocation of the PCT for 14 February 2007 to announce the election outcome.

Notably, the constitutional amendments included (1) the possibility that the NSC could convene the PCT in case the President was not in condition to fulfill this duty; (2) the possibility that the NSC could appoint the Acting President in case that the constitutionally appointed Acting President could not fulfill his or her duties; (3) removal of the prohibition that the Acting President cannot run for President.

As a result of the 26 December meeting of the PCT, for the first time since independence, the office of the President will be contested by more than one candidate and the contest will be conducted under a specific election law. While these novelties are no guarantee for a competitive election conducted in line with the 1990 OSCE Copenhagen Document, they appear to point towards willingness for a change, demonstrated by the PCT. Furthermore, the Acting Speaker of the Mejlis specifically indicated that international and national observers have the right to access to the electoral process, in line with Paragraph 8 of the 1990 OSCE Copenhagen Document.

It is a standard practice of an OSCE/ODIHR NAM to assess a broad range of political opinions related to an upcoming election. However, due to a compressed time frame, it was not possible to conduct such an assessment in a comprehensive manner, and in a limited political environment. This is particularly the case in the absence of an OSCE/ODIHR institutional memory in Turkmenistan.

### C. LEGAL FRAMEWORK AND ELECTION ADMINISTRATION

The new PEL includes a series of provisions that comply with the 1990 OSCE Copenhagen Document, such as a five year term of office of the President, multiple candidacies, equal treatment of all candidates during the campaign, the possibility for representatives of political parties to be members of elections commissions, access of both domestic and international observers to the process and prohibition to abuse administrative resources for campaign purposes.

However, while the PEL is yet to be assessed in detail, it is clear that there is room for substantial improvement in order to fully meet the 1990 OSCE Commitments<sup>2</sup>, in particular in the areas of the right of Turkmen citizens to stand as candidates and the rights of such candidates. This concern stems from the fact that, in accordance with the Constitution, nomination of candidates is possible only by members of the PCT, that potential candidates have to have served as state officials and that candidates registered subsequently by the Central Election Commission (CEC) can be withdrawn at any time by the PCT. In addition, it would be beneficial if the requirement that presidential candidates have to have resided permanently in Turkmenistan for 15 years be clarified in all details in the law. Inquiring about the background of these limitations, the NAM was informed that they reflect historical and cultural traditions to consult the Elders and make consensual decisions.

Other areas of possible improvements include the provision that the meetings of candidates with voters are organized by election commissions and local authorities, rather than by the candidates and their agents; the lack of provisions regulating the media coverage of the campaign; the prohibition for failed candidates to contest a repeat election; and the marking of the ballots, where voters cross out the names of all candidates except the name of the chosen candidate (negative voting).

The election system comprises a first round of voting whereby for a candidate to become a President, he or she needs to get the votes of at least half of the voters who participated in the vote. In case no candidate meets this requirement, a second round of voting is conducted within two weeks of the first round. The second round is contested by the two candidates who received the highest numbers of votes in the first round, and the winner is the candidate who received the highest number of votes. If only two candidates contested the first round and none fulfilled the above mentioned legal requirement, a repeat election is to be conducted within two months; however, the failed candidates cannot contest the repeat election.

The presidential election is administered by a four level election administration comprising the Central Election Commission (CEC), six Regional (vilayat) Election

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<sup>2</sup> Document of the Copenhagen meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 1990.

Commissions (RECs) including the election commission for the city of Ashkhabad, 65 District Election Commissions (DECs) and some 1,600 Polling Station Election Commissions (PECs).

The CEC is appointed by the PCT and functions in accordance with the Law on The Central Commission for the Conduct of Elections and Referenda. The RECs are appointed by the CEC; the DECs are appointed by the respective REC upon nomination of the people's councils of the towns and communes (etraps) and the PECs are appointed by the respective DECs upon nominations of the corresponding people's councils.

The Chairman of the CEC informed the NAM that all preparations for the elections are conducted in line with the election schedule and he does not anticipate particular challenges with regard to the conduct of the election.

#### **D. CANDIDATES AND CAMPAIGN**

Candidates for presidential election are nominated by the institutional members of the PCT, e.g. the President, the Mejlis, the Cabinet of Ministers, delegations of the regions, etc. Also, each member of the PCT has the right to propose his or her own candidacy for discussion in the PCT. While there is no limit on the number of nominations, it nevertheless restricts the field of candidates and therefore voters' choices. For a person to become a candidate, his or her nomination needs to be approved with a two thirds majority vote by the PCT. While such a measure could limit the participation of spurious candidates, it further limits the field of candidates. The approved candidates are registered for the election by the CEC.

Eleven candidates were nominated in the course of the 26 December PCT meeting and six of them, one from each of the five regions of Turkmenistan and one from Ashkhabad including the Acting President, received the necessary number of votes in the PCT. Subsequently, all six were registered by the CEC. The process was broadcast on the State Television. All candidates were from the DPT. The latter raised possible concerns about the competitive and pluralistic nature of the campaign, in addition to the issue of the separation between the State and political parties, and the campaigns of candidates. There is no woman candidate.

The election campaign started on 28 December. The six candidates are meeting with voters across the country to discuss their programs. The NAM was able to meet two of the six registered candidates. Asked how many meetings with voters were envisaged in each of the five regions and Ashkhabad, one of them responded by saying he would conduct one in each region. Both candidates expressed their satisfaction with the way the campaign is conducted so far.

It would appear that the programs of all candidates include intentions to continue the current policy in international relations and to suggest reforms in the areas of agriculture, education and social security. While it seemed that so far they were receiving equal treatment with regard to the conduct of their campaigns, the Acting President had offered his free airtime to be shared by the remaining five candidates.



## E. DOMESTIC AND INTERNATIONAL OBSERVERS

Domestic election observation appears to be an activity conducted, at least in part, under the auspices of the Institute for Democracy and Human Rights, inaugurated in October 1996 and closely associated with the presidential administration. The NAM was informed that the Institute was involved in the observation of the 1999 and 2004 elections for the Majlis. In addition, the Institute is also engaged with the conduct of voter education and awareness projects, and advises the Majlis with regard to drafting of human rights and democracy legislation including electoral legislation. The Head of the Institute's Department of Democracy and Human Rights is currently the CEC Deputy Chairperson.

The OSCE/ODIHR has not observed elections in Turkmenistan to date. An OSCE/ODIHR NAM had visited Turkmenistan in November 1999 with regard to possible observation activities related to the 12 December 1999 elections for the Majlis. This NAM has advised against any observation due to "grave concerns that the broad electoral framework in Turkmenistan falls far short of the OSCE Commitments formulated in the 1990 Copenhagen Document".<sup>3</sup> It however indicated that the OSCE/ODIHR stands ready to assist the authorities should they decide to improve the broad electoral framework. An attempt to start a dialogue between the OSCE/ODIHR and the authorities of Turkmenistan, with relation to the OSCE/ODIHR election observation mandate, in advance to the 2004 elections for the Majlis was to no avail.

## IV. CONCLUSIONS AND RECOMMENDATIONS

With regard to a possible OSCE/ODIHR observation role in the 11 February 2007 presidential election in Turkmenistan, the NAM notes that due to the sudden circumstances that precipitated the NAM, and the long-term prevailing circumstances, the NAM was conducted only one month ahead of the election. Therefore, it is not possible, due to time limitations, to deploy a standard OSCE/ODIHR Election Observation Mission (EOM) for the 11 February election.

While it may still be possible to deploy a limited EOM (LEOM), this could not be done according to the standard ODIHR methodology, as long term-observers could only be deployed less than three weeks from election day. This is not sufficient for drawing comprehensive conclusions, in particular in the absence of a substantive OSCE/ODIHR institutional memory with regard to observing elections in Turkmenistan.

In view of the current signals of improvement demonstrated by a number of positive elements in the new PEL, as well as the support of the authorities with regard to the conduct of the current NAM in the restricted time frame available, the OSCE/ODIHR considers it appropriate to recommend the deployment of a team of experts to follow the election process; it would also support the reporting of the OSCE Center in Ashkhabad through the standard OSCE reporting channels.

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<sup>3</sup> OSCE/ODIHR press release of 9 December 1999.

Additionally, this will enable providing feedback information with regard to the framework and conduct of the elections to the authorities of Turkmenistan, thus providing a starting point for a dialogue that underscores OSCE Commitments, and possible future cooperation in the field of elections and on related issues. Moreover, regional local government elections are anticipated later in 2007 and early parliamentary elections in 2008. These elections will provide sufficient opportunities to deepen the cooperation respecting standard OSCE/ODIHR procedures.

## **ANNEX: PROGRAM OF THE OSCE/ODIHR NEEDS ASSESSMENT MISSION**

### **Monday, 8 January 2007**

- 09.00-10.00** Briefing by the OSCE Centre in Ashkhabad
- 10.00-11.30** Meeting with Minister of Foreign Affairs, H.E. Rashid Meredov
- 11.30-13.00** Meeting with Chairperson of the Central Election Commission, Mr. Murat Karryev
- 14. 30-15.30** Ms. Astrid Wolf, Charge d' Affairs, German Embassy, Ambassdor Tasin Djemil, Romanian Embassy, Ambassador Peter Butcher, UK Embassy and Mr. Henry Tomasini, Charge d' Affairs, French Embassy
- 15.45-16.15** Ambassdor Hakki Akil, Turkish Embassy
- 16.30-17.00** Ms. Jennifer Brush, Charge d' Affairs, US Embassy
- 17.15-17.45** Mr. Vladimir Chernyakov, Councilor, Russian Embassy
- 18.00-18.30** Ms. Annika Linden, UNHCR

### **Tuesday, 9 January 2007**

- 09.30-10.30** Meeting with representatives of the Institute for Democracy and Human Rights:  
Ms. Shemshat Atajanova, Head of Department of Democracy and Human Rights;  
Mr. Durdu Annamyradov, Head of Department of Human Rights and Statehood.
- 10.40-11.40** Meeting with Acting Head of the Mejlis and Head of the Committee on International and Parliamentary Relations of the Mejlis, Ms. Akja Nuberdiyeva
- 12.00-13.00** Meeting with Mr. Nuriev, Deputy Minister of Oil and Gas; candidate
- 14.50-15.50** Meeting with Mr. Garadjaev, Hyakim of Abadan, Ahal Velayat, candidate
- 16.10-17.00** Meeting with Chairperson of the Central Election Commission; Mr. Murat Karryev
- 17.20-18.20** Meeting with Minister of Foreign Affairs, H.E. Rashid Meredov