



Office for Democratic Institutions and Human Rights

## TURKMENISTAN

### EARLY PARLIAMENTARY ELECTIONS 14 December 2008

#### OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

29 September – 1 October 2008



Warsaw  
20 October 2008

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**TURKMENISTAN**  
**EARLY PARLIAMENTARY ELECTIONS**  
**14 December 2008**

**OSCE/ODIHR Needs Assessment Mission Report \***

**I. INTRODUCTION**

Following a statement by President Berdimuhammedov on 13 September 2008 that international observers would be invited to observe the *Mejlis* Elections scheduled for 14 December 2008, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed a Needs Assessment Mission (NAM) comprised of Mr. Gilles Saphy, Election Adviser in the OSCE/ODIHR Election Department, and Mr. Nikolai Vulchanov, External Election Expert. The OSCE/ODIHR NAM was accompanied by Ms. Anna Chernova, Programme Officer in the International Secretariat of the OSCE Parliamentary Assembly. On 30 September and 1 October, the NAM conducted meetings with officials of the Ministry of Foreign Affairs, institutions involved in the electoral process, the Democratic Party of Turkmenistan (DPT), and several public associations. The OSCE/ODIHR NAM also met representatives of the resident international community.

The OSCE/ODIHR had previously sent an Election Support Team (EST) to Turkmenistan in January 2007, in relation to the 11 February 2007 presidential election. The purpose of the EST was to follow the final phases of these elections with a view to assist the OSCE Centre in Ashgabat in reporting on the presidential election, through its standard reporting channels.

This marked the beginning of a dialogue between the OSCE/ODIHR and the Turkmen authorities on possible improvements to the election process. In particular, subsequent to a visit in May 2007 of the former OSCE/ODIHR Director, Ambassador Christian Strohal, a number of areas of cooperation were identified and agreed upon, following his meeting with President Berdimuhammedov. These included a seminar on international standards for democratic elections in Ashgabat, and a comprehensive assessment of the election legislation of Turkmenistan.<sup>1</sup>

The OSCE/ODIHR NAM wishes to express its appreciation to the Ministry of Foreign Affairs of Turkmenistan and the OSCE Centre in Ashgabat for their support in facilitating the NAM.

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\* The OSCE/ODIHR was informed that amendments to the Law on the Elections of Deputies to the *Mejlis* of Turkmenistan were adopted on 10 October and published on 15 October, after the completion of the Needs Assessment Mission. While it was not possible to reflect these amendments in this report, the OSCE/ODIHR notes that some of the amendments indicate an intention to address several of its previous recommendations, which appear to be of a mostly technical nature. These developments do not alter the recommendation contained in this report.

<sup>1</sup> Available at: <http://www.osce.org/odihr-elections/>

## II. EXECUTIVE SUMMARY

The members of the outgoing *Mejlis* (Parliament) were elected on 19 December 2004. The next parliamentary elections were due to take place in 2009. However, on 25 October 2005, the *Halk Maslakhaty*, or People's Council of Turkmenistan (PCT) adopted a Resolution on holding early elections to the *Mejlis* on 14 December 2008.

While to date the legal framework for elections in Turkmenistan recognises the universal, direct and equal right to elect by secret ballot, the election legislation would require considerable improvement in order to constitute a framework for the conduct of genuine elections in line with OSCE commitments.

Amendments of the Constitution of Turkmenistan adopted on 26 September 2008 had an impact on the electoral framework including by abolishing the PCT and increasing the number of members of the *Mejlis* to 125. In a welcome development, one of the amendments removed the ban on the right to vote for eligible voters in pre-trial detention, as recommended in the OSCE/ODIHR assessment of the legal framework.

The Speaker of the *Mejlis* informed the OSCE/ODIHR NAM that a draft law amending the election legislation accordingly is in preparation. Other interlocutors indicated that the law might not be amended on time, and that in such a case the new constitutional provisions would have direct legal effect. Adoption of amendments to the law on election of the *Mejlis* could provide an opportunity to incorporate a number of recommendations offered in the OSCE/ODIHR assessment of the legislation.

While interlocutors indicated that seats in the *Mejlis* would be contested by more than one candidate, the current political context does not allow for a meaningful competition. Although the legal framework allows for the registration of political parties, there is only one registered party in Turkmenistan. Furthermore, civil society organisations are placed under the same leadership as the party and the State, and the domestic media are controlled by the State.

Although a nominal possibility for independent candidates exists, the right to nominate candidates for the *Mejlis* is effectively exercised by the Democratic Party of Turkmenistan - the only registered political party, and the "public associations", most particularly the Trade Unions, the Women's Union, the Veterans' Union and the Youth Union. These entities, along with the Democratic Party of Turkmenistan are all part of the National Revival Movement "*Galkynysh*", headed by the President of Turkmenistan, who also leads the Party. They also enjoy the right to nominate members of election commissions and to observe the elections. This arrangement is problematic in several respects: it further constrains competition, precludes the independent performance of the election commissions and raises questions regarding the capacity of domestic observers to effectively report on the process. This arrangement also raises a more fundamental question of a lack of distinction between civil society organisations, the party and the State.

While the potential to conduct the 14 December elections for the *Mejlis* under an improved legal framework and the cooperation of the authorities with the NAM constitute a basis for a possible OSCE/ODIHR election-related activity in

Turkmenistan, the existing constraints for a meaningful pluralistic process limit the range of such activities. Mindful of these considerations, the OSCE/ODIHR NAM recommends the deployment of a few experts in the context of an Election Support Team for the 14 December elections. The OSCE/ODIHR EST could support the OSCE Centre in Ashgabat in its reporting through the standard OSCE channels, and could contribute to the on-going dialogue on the prospects for conducting elections in line with OSCE commitments.

### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

Turkmenistan declared independence on 27 October 1991. On 21 December 1991, Turkmenistan signed the Almaty Declaration 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.

Former President, Mr. Saparmurat Niyazov, had led the country since 1985 and had run unopposed in presidential elections in 1990 and 1992. In 1999, the PCT declared Mr. Niyazov to be “president-for-life.” Mr. Niyazov passed away on 21 December 2006. The election for his successor took place on 11 February 2007. The 11 February 2007 election was hence the first nominally contested presidential election in Turkmenistan, although all six candidates were campaigning on an identical platform. Mr. Gurbanguly Berdimuhamedov, who was appointed Acting President following President Niyazov’s death, was subsequently declared the winner with 89 per cent of the vote. The OSCE/ODIHR did not deploy an election observation mission for this election. The next presidential election is due in February 2012.

The present *Mejlis* was elected on 19 December 2004. The next parliamentary elections were due to take place in 2009. However, on 25 October 2005, the People’s Council of Turkmenistan (PCT) adopted a Resolution on holding early elections to the *Mejlis* on 14 December 2008.<sup>2</sup>

The DPT was founded by former President Niyazov in December 1991, a few weeks after independence. While the legal framework permits in theory the registration of political parties as alternatives to the DPT, this has not materialised. Moreover, after becoming a President for life, Mr. Niyazov was reported to say that creation of opposition parties would not be contemplated before 2010.

According to DPT officials, the main task of the party is to promote the initiatives of the President and to make the population aware of the realisation of the State programme of development. An overarching structure called the Turkmenistan National Revival Movement “*Galkynysh*” ensures coordination between the DPT and the main “public associations” of the country including the Trade Unions, the

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<sup>2</sup> The current election legislation does not provide a timetable for announcing elections.

Women's Union, the Youth Union and the Veteran Union. The National Revival Movement had been an initiative of President Niyazov in the end of 1992.

During a joint session in August 2007 of the Special Congress of the Revival Movement and of the Special Congress of the DPT, President Berdimuhammedov was elected as the leader of the Democratic party of Turkmenistan, and as leader of the Revival Movement "*Galkynysh*" at the same time. This arrangement is problematic for it abolishes the fundamental distinction between the civil society, the political party, and the State. It would appear that such an arrangement, combined with the rules for nomination of candidates for the *Mejlis*,<sup>3</sup> calls into question compliance with Paragraphs 2, 3 and 5.4 of the 1990 OSCE Copenhagen Document.<sup>4</sup>

The OSCE/ODIHR NAM was told that the DPT had some 160,000 members, the Trade Unions - some 1,100,000 members in 16 branches, the Women's Union - 650,000 members, and the Youth Union - some 1,000,000 members between the age of 14 and 37. The population of Turkmenistan is estimated between 4.8 and 5.2 million.<sup>5</sup>

Interlocutors of the NAM stated that legal conditions exist for the creation of new political parties, but indicated that there was no willingness to create new parties emanating from the population, and that such creation should not be "artificial". Some of the officials met indicated that there could be in the future a potential for new political parties formed on entrepreneurial or agrarian platforms.

## **B. LEGAL FRAMEWORK**

The legal framework for the *Mejlis* elections includes the Constitution of Turkmenistan, the Law on the Central Commission for Elections and Referenda (LCEC), the Law on the guarantees of electoral rights of the people of Turkmenistan, and the Law on the Elections of Deputies to the *Mejlis* of Turkmenistan (MEL).

The legislation contains an explicit commitment<sup>6</sup> to international norms in the conduct of elections, including reference to the constituent documents of the OSCE. The latter include the 1990 OSCE Copenhagen Document. In addition, Turkmenistan became a party to the International Covenant on Civil and Political Rights (ICCPR) in 1997.<sup>7</sup>

While to date the legal framework for elections in Turkmenistan recognises the universal, direct and equal right to elect by secret ballot, the election legislation would

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<sup>3</sup> Please see Section III.D "Candidates and campaign".

<sup>4</sup> Document of the Copenhagen Meeting of the Second Conference on the Human Dimension of the CSCE, Copenhagen, 5-29 June 1990, available at: [www.osce.org/odihr/1990/06/13992\\_en.pdf](http://www.osce.org/odihr/1990/06/13992_en.pdf).

<sup>5</sup> See, for example: [http://www.unicef.org/infobycountry/Turkmenistan\\_statistics.html](http://www.unicef.org/infobycountry/Turkmenistan_statistics.html) or <https://www.cia.gov/library/publications/the-world-factbook/geos/tx.html>

<sup>6</sup> Article 11 of the Law on Guarantees of Electoral Rights of the People of Turkmenistan provides that: "Turkmenistan, being a full-fledged subject of the world community and strictly following the principles and norms vested in the UN Charter, constituent documents of OSCE and other universally recognized international organizations, shall, when organising and holding the elections, adhere to the provisions of international treaties, conventions, agreements to which it is a party, and provide observance/enforce thereof".

<sup>7</sup> <http://www2.ohchr.org/english/bodies/ratification/4.htm>

require considerable improvement in order to constitute a framework for the conduct of elections in line with OSCE commitments. A number of crucial aspects of the election process are not regulated, or are regulated inadequately in the legislation.<sup>8</sup>

Amending the current legislation alone cannot guarantee an electoral process in line with OSCE commitments. This also requires a commensurate level of political will to implement the law, and to develop a pluralistic environment to underscore a genuine democratic election process.

### Constitutional Amendments

The current Constitution was adopted on 18 May 1992, and has been amended on a number of occasions. Recent amendments were adopted by the *Halk Maslakhaty* or People's Council of Turkmenistan (PCT) on 26 September 2008.<sup>9</sup> The amendments focus on two institutional issues: (a) abolition of the legal authority of the PCT and the redistribution of its powers between the President and the *Mejlis*, and (b) bringing the provisions of the Constitution closer to meeting international obligations and commitments of Turkmenistan.

In the former provisions of the Constitution, the PCT was the "highest representative organ of popular power" which exercises "supreme state power and control".<sup>10</sup> The PCT included some 2,507 elected, appointed and *ex officio* members, and it combined competences of a legislative, executive and constitutional nature. Despite the particular place of the PCT in Turkmenistan's constitutional framework, since 1992 the Constitution established a strong presidential system of government with dominant powers residing in the Office of the President.

The abolition of the PCT is a consequence of a stated objective for the Turkmen State institutions to better correspond to a system of the separation of power, as provided in the amended Article 4. It implies a redistribution of the powers formerly vested with the PCT between the President and the *Mejlis*.

Some amendments have a direct impact on the conduct of the forthcoming parliamentary elections. In particular, the number of deputies to the *Mejlis* has been increased from 65 to 125, with the stated objective to allow for a better representation of the society in the *Mejlis*. In addition, in a welcome development, the amendments have abrogated former Article 87 of the Constitution, according to which the right to vote was denied to "individuals who, in the manner established by the law of criminal procedure, are subject to a restraining order and are in custody". This provision was criticized by the OSCE/ODIHR in its Assessment of the Election Legislation of Turkmenistan as running contrary to Paragraph 24 of the OSCE 1990 Copenhagen Document, and as violating the principle of presumption of innocence, enshrined in Article 11 of the Universal Declaration of Human Rights.

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<sup>8</sup> See, OSCE/ODIHR Assessment of the Election Legislation of Turkmenistan, available at: <http://www.osce.org/odihr-elections/>

<sup>9</sup> The NAM was provided with a translation of the constitutional amendments by the OSCE Centre in Ashgabat.

<sup>10</sup> Article 45 of the Constitution before the 26 September amendments

Also noteworthy is the transfer of the competence to establish the CEC and change its members, to the President, a power formerly vested with the PCT. While the modalities for the appointment of the election administration vary substantially across the OSCE region, they should take into account the need to guarantee that the election administration can act independently and impartially.<sup>11</sup> The unlimited presidential authority to form the Central Election Commission and change its composition may raise questions of control of the CEC by the President, and of possible conflict of interests, not least when the President is also the leader of the political party fielding candidates for national or local elections, or in the event he is running for a new mandate.

### **Possible amendments to the laws governing the *Mejlis* elections**

The OSCE/ODIHR NAM heard different opinions on the prospects for bringing the laws in conformity with the amended Constitution. Some interlocutors argued that in the absence of amendments to the laws, any instance of non-conformity of the laws with the new provisions of the Constitution would be resolved by the implementation of the principle of “direct effect” as provided in Article 5 of the Constitution. Accordingly, “The Constitution of Turkmenistan is the Supreme Law of the state, and the norms and provisions secured in the Constitution have direct effect. Laws and other legal acts which contradict the Constitution have no legal force.” This principle raises a question of practical implementation and could create uncertainties, in particular regarding which institution would bear the responsibility to declare the legal provisions unconstitutional, or regarding possible instances when the constitutional norm is not detailed enough to be directly implemented. On the other hand, the Chairperson of the *Mejlis* informed the OSCE/ODIHR NAM that draft amendments to the election legislation were in preparation, without being more specific on a possible timeframe for their adoption.

At a minimum, a number of provisions of the law on the election to the *Mejlis* need to be amended to reflect the changes to the Constitution, in particular, provisions regulating the modalities for calling elections by the PCT, the formation of the electoral districts by the CEC, the formation of the CEC, the compilation of voter lists (possible inclusion of persons in pre-trial detention), etc. The CEC Law would also need to reflect the changes in the Constitution.

Beyond the question of the conformity of the laws with the amended constitution, the OSCE/ODIHR NAM heard from the *Mejlis* Chairperson that the draft amendments to the MEL considered may have incorporated some of the recommendations expressed by the OSCE/ODIHR in its above-mentioned assessment of the election legislation. While the NAM did not have an opportunity to get acquainted with this draft legislation, this stated intention is welcome.

As part of an election support project devised following an assessment mission of the United Nations Electoral Assistance Division (EAD), and of the United Nations Development Programme (UNDP), the latter is currently providing technical assistance

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<sup>11</sup> Paragraph 10 of the Human Rights Committee’s Comments on Article 25, ICCPR

to working groups involved in the drafting of an electoral code. This is a longer term project, which is not designed to be completed before the presidential election.

As of writing this report, the election legislation of Turkmenistan was not amended, and it was unclear whether the foreseen amendments would only address issues of unconstitutionality, would also incorporate some of ODIHR's recommendations, or would change other aspects of the process. The information on the specifics of the election system and of the organisation of the process, which this report provides below, is therefore based on the existing legislation.

## **Electoral System**

According to the MEL, members of the *Mejlis* are elected in single member constituencies (Article 1), the “the candidate for deputy of the *Mejlis* who has received in the election more than half of the votes of voters who participated in voting shall be deemed to be elected” (Article 43), and “where three or more candidates for deputy of the *Mejlis* stood for election in an electoral district and none of them was elected, the district election commission shall adopt a decision to conduct repeat voting in the district between the two candidates who received the largest number of votes.” (Article 47)

The amended Article 60 of the Constitution provides that “The *Mejlis* consists of 125 deputies who are elected by area constituencies with approximately the same number of voters for a term of five years”. Only the number of MPs was changed in this provision, however, it does not formally exclude a change of the electoral system in the law to a one round first-past-the-post system when amending the MEL.

Article 43 of the MEL establishes that the election is invalid “if less than half of the voters on the voter list participated in it”. Considering that these articles regulate the establishment of results for the electoral district, it would appear that the turnout requirement applies at the level of the electoral district. This practice is not recommended for turnout requirements have the potential to create cycles of failed elections, invite electoral malfeasance and undermine voters' confidence in the electoral process.

## **C. ELECTION ADMINISTRATION**

### **Election Commissions**

The administrative responsibility for organising elections and referenda in Turkmenistan lies with the Central Commission for Holding Elections and Referenda (CEC) and its subordinate electoral commissions: six Regional Election Commissions (RECs) including the election commission for the city of Ashgabat, one District Election Commission (DEC) per electoral constituency, and close to 1,700 Polling Station Election Commissions (PECs).

The CEC is a 15-member standing body, which, since the 26 September amendments of the Constitution, should be formed by the President of Turkmenistan. The RECs are appointed by the CEC upon recommendation of the regional/district people's

councils.<sup>12</sup> DEC's 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 DEC's upon nominations of the corresponding people's councils.

Article 7 of the MEL provides that: "election commissions, [...] shall be comprised of representatives of political parties, public associations, bodies of territorial public self-government and other groups of citizens, and military personnel in military units" and expressly counsels that "representatives of state authorities may be nominated to election commissions". Finally, Articles 15 and 17 allow for membership to be changed "in case of necessity". These rules raise questions as regards concrete possibilities to form election commissions that are truly pluralistic and can operate independently from the party and State.

Article 14.3 of the MEL provides that the CEC is to "form electoral districts for elections of deputies of the *Mejlis*." The OSCE/ODIHR NAM was informed by the CEC Chairman that the CEC was already working on drawing the boundaries of the new electoral constituencies.

### **Voter Lists**

Precinct electoral commissions are responsible for the compilation of voter lists. Voter lists are prepared on an *ad hoc* basis for each election, on the basis of data provided by bodies of local executive power and door-to-door enumeration. Voter lists must be made available for public scrutiny at least 10 days before the election,<sup>13</sup> which could be considered as short for corrections to be made or appeal to a superior commission or to a court. The law also seems to allow for persons whose names have been omitted from the voters list to apply to the precinct election commission for inclusion on election day. The total number of voters is estimated to be some 2.7 million.

### **Voting and counting**

The MEL leaves a number of aspects of the process under-regulated. This concerns in particular the absence of voting hours set in the law, some aspects of the handling of ballot papers, and the provisions on the vote and count, which allow some degree of uncertainty in the proceedings to follow.<sup>14</sup>

The laws provide a possibility for voters who are unable to be at their place of residence on election day to "convey to the precinct election commission in advance an expression of his/her will regarding candidates for deputies to the *Mejlis*"<sup>15</sup> Under 41.2 this right arises "from the moment when voter lists are displayed for public familiarisation". If the ballots are not available at the polling station, then the voter is provided a special voting paper – "form for accounting of the opinion of the elector". This procedure raise concerns as the law does not provide guarantees for the

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<sup>12</sup> Article 15 of the MEL

<sup>13</sup> Article 27 MEL

<sup>14</sup> The OSCE/ODIHR Assessment of the Election Legislation of Turkmenistan provides an analysis of this aspect of the process.

<sup>15</sup> Article 41

transparency and integrity of this process, such as possibilities for candidates and observers to monitor it.

The law also provides a possibility for mobile voting for voters unable to come to the polling station for reasons of health “or other reasons”.<sup>16</sup> It is of concern that the law does not provide more details on the method and proceedings in order to safeguard the transparency and integrity of this voting modality.

The OSCE/ODIHR NAM was informed of an intention to provide a possibility for voters abroad to vote in embassies. This type of voting requires careful regulation in order to enhance transparency and integrity.

Article 40 of the MEL provides that “the voter shall cross out on the ballot paper the surnames of those candidates against whom he/she is voting.” Negative voting increases the chances of spoiled ballots because of the increased opportunity to make errors, requires time-consuming calculations in order to determine the number of votes for and the number of votes against each candidate – also increasing the risk of error during the count. Negative voting also raises a more fundamental concern regarding the secrecy of the vote, where there is only one candidate on the ballot, since only those voters voting against the single candidate would need to step inside the voting booth. Negative voting is a practice inherited from the Soviet era which has largely been abolished in former Soviet republics.

Provisions of the law on the counting process and on the publication of the results could be improved. In particular, provisions on filling in result protocols<sup>17</sup> do not require that the results protocols be completed in ink, but only require that the protocol be signed and sent to the immediate superior election commission. The same provisions fail to establish a requirement for the results protocols to be publicly posted or given to observers.

After consolidation of the election results at the DEC, the latter announces the results in an electoral constituency. For this step, the law only foresees the publication of the consolidated results at constituency level. The publication of detailed result by polling station would enhance transparency.

Article 43 of the MEL establishes a possibility for a DEC to “declare the election invalid due to violations of this Law committed during the elections or the vote count”. This provision could enable partial or abusive invalidation of results. In addition, these laws do not seem to offer possibilities of invalidating and re-running specific precincts, but only entire constituencies. Finally, the law does not provide any possibility for a recount of votes.

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

According to the existing legislation, the nomination of candidates for the *Mejlis* starts 45 days and end 30 days before the elections. Their actual registration by DEC's shall

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<sup>16</sup> Article 39

<sup>17</sup> Articles 42.5 and 43.5

start 35 days and end 25 days before the election. A refusal to register a candidate can be appealed to the CEC or to a court within three days.

According to Article 28 of the MEL, candidacies for the *Mejlis* elections emanate either from political parties and public associations, or from meetings of citizens. In the absence of any political party alternative to the Democratic Party of Turkmenistan, or public organisations truly independent from the party-State, the possibilities for an effective exercise of the right to stand as a candidate appear to be substantially limited outside the entities forming the National Revival Movement “*Galkynysh*”.

As regards public associations, while the Youth Union representatives met by the OSCE/ODIHR NAM indicated an intention to field candidates in all constituencies, it was less clear from the Trade Unions and Women’s Union what their intentions are.

The law provides a nominal possibility for independent candidates nominated by meetings of citizens. It is, however, uncertain whether the administrative requirements for such a meeting to be valid do not effectively make the concrete possibilities to exercise this right limited in practice.

Under the current law, candidates are entitled to appoint just three proxies. This may not be sufficient for constituencies of some 21,000 voters on average. The law also does not allow candidates to nominate non-voting members to electoral commissions. This may not be an issue for candidates emanating from the entities forming the Revival Movement, since the election commissions are actually constituted by their representatives; however, it could be an issue for any possible independent candidate.

The law does not contain any provision on campaign finance. It only provides that the cost of preparing and holding elections shall be covered by the State.<sup>18</sup> While this rule may permit some system of State funding for individual candidates' campaigns, it is unclear whether it allows or prohibits candidates from covering their campaign expenses from their own resources.

The OSCE/ODIHR NAM was told by the Chairperson of the *Mejlis* that all candidates would be granted state funding which they would be able to spend as they see fit. Nothing in the currently existing legislation seems to provide a framework to organise this.

Finally, the law provides that “Meetings with voters shall be organised by the district electoral commissions together with the respective bodies of local executive power and local self-government”.<sup>19</sup> This provision, which prohibits candidates to organise their own meetings with voters, was particularly criticised in the ODIHR Assessment of the election legislation as an undue interference of the State in candidates’ campaign activities.

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<sup>18</sup> Article 8  
<sup>19</sup> Article 37

## **E. MEDIA**

The election legislation contains only a few provisions governing the media in their coverage of elections and the promotion of a candidate's campaign. Article 22 foresees that mass media should cover the preparations of the elections, and that the election administration shall provide them with relevant information. Article 37 establishes that citizens, political parties, and public associations can debate and campaign in the press as well as on television and radio. The law does not establish a principle regulating the access for contestants to the media, or provide any rule that coverage by public broadcasters must be impartial. It also does not provide any distinction between forms of media, or the conditions in which contestants can issue campaign broadcast. The simplicity of the legislation on this aspect of the process suggests that it is not designed to cope with complex issues normally arising in genuinely contested elections.

There are about 30 newspapers and magazines circulating in Turkmenistan, four television channels, and 4 radio stations of national coverage. There is no domestic private broadcast media. There seems to be a relatively widespread access via satellite to some international media, particularly in Russian and Turkish language. Several international news agencies have stationed journalists in Turkmenistan, all of them citizens of Turkmenistan.

The State News Agency of Turkmenistan has a responsibility to both inform the voters on the election process, and to convey the opinions and viewpoints of all candidates to the public. The use of Internet, although reportedly on the rise, seems however to be limited.

## **F. DOMESTIC AND INTERNATIONAL OBSERVERS**

International and domestic observers are entitled to be present at sessions of election commissions, when the ballot boxes are sealed prior to voting, during voting and the counting of the ballot papers, and during the determination of the votes.<sup>20</sup> However, there are no provisions on observation of pre-electoral and post electoral phases, or on the rights and duties of observers when observing these processes. In addition, there does not seem to be any rules as to which organisations can field domestic observers, or providing criteria for their accreditation.

As previously mentioned, the public associations met during the OSCE/ODIHR NAM have indicated that they would participate in a domestic observation effort.

As regards international observation, the Ministry of Foreign Affairs indicated that, in line with Turkmenistan's OSCE commitments, the OSCE would be invited to observe the elections. The MFA also said that the Commonwealth of Independent State had been invited to observe the elections, upon their request, and that some 40 observers from this organisation were expected.

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<sup>20</sup> Article 22 of the MEL

#### IV. CONCLUSION AND RECOMMENDATIONS

With regards to a possible OSCE/ODIHR election-related activity in Turkmenistan in relation to the forthcoming *Mejlis* elections, the OSCE/ODIHR notes that the amendments to the Constitution and the stated objective to improve the legal framework for elections may constitute possible positive developments. The OSCE/ODIHR NAM also noted the interest expressed by the Turkmen authorities to maintain the dialogue with the OSCE/ODIHR on possible improvements to the election process. In view of these considerations, it seems appropriate for the OSCE/ODIHR to follow the forthcoming elections with a limited format. The existing constraints on a meaningful pluralistic process would make the deployment of a standard or limited election observation mission premature at this stage.

Mindful of the above, the OSCE/ODIHR NAM recommends the deployment of a small number of election experts in the context an Election Support Team to Turkmenistan for the 14 December elections to the *Mejlis*. In line with regular practice, the OSCE/ODIHR EST could support the OSCE Centre in Ashgabat in its reporting through the standard OSCE channels, and contribute to the on-going dialogue on the future prospects for conducting elections in line with OSCE commitments.

## ANNEX

### PROGRAMME

#### ODIHR Needs Assessment Mission Ashgabat, Turkmenistan 29 September - 2 October 2008

##### Monday, 29 September 2008

- 15:00-16:00** Turkish Embassy (Dr. Hüseyin Avni Bıçaklı, Ambassador)  
**16:30-17:00** US Embassy (Ms. Jennifer Lopresto, Political Officer)  
**17:00-18:00** Russian Embassy (Mr. Alexey M. Demin, Minister Councillor)  
**19:00-20:00** UNDP (Ms. Inita Paulovica, Deputy Resident Representative)

##### Tuesday, 30 September 2008

- 10:00-11:00** Ministry of Foreign Affairs of Turkmenistan (Mr. Vepa Hojiev, First Deputy Minister)  
**11:30-12:30** Central Commission on Holding Elections and Referendums  
(Mr. Myrat Garryew, Chairman)  
**15:00-16:00** National Institute of Democracy and Human Rights under the President of Turkmenistan (Ms. Shirin T. Ahmedova, Director)  
**16:30-15:30** Ministry of Justice (Mr. Batyr Erniyazov, First Deputy Minister)

##### Wednesday, 1 October 2008

- 10:00-11:00** *Mejlis* (Ms. Akja Nurberdiyeva, Chairperson)  
**11:30-12:30** Democratic Party of Turkmenistan (Mr. Kasymguly Babayev First Secretary)  
**14:00-15:00** Turkmen State Information Agency (Ms. Jeren Taimova, Director)  
**15:15-16:15** National Centre of Trade Unions of Turkmenistan (Ms. Ogulhajat Ashangulyyeva, Chairperson)  
**16:30-17:30** Women's Union of Turkmenistan (Ms. Ogulhajat Ashangulyyeva, Chairperson)  
**17:45-18:45** Youth Union of Turkmenistan (Mr. Jepbar Guyjov, Chairperson)  
**19:00-20:00** EU Embassies (Mr. Peter Butcher, British Ambassador; Mr. Christian Lechery, French Ambassador; Mr. Reiner Morell, German Ambassador; Mr. Maciej Lang, Polish Ambassador; Mr. Leurentiu Ciocan, Third secretary Embassy of Romania)