TURKMENISTAN

PARLIAMENTARY ELECTIONS
26 March 2023

ODIHR NEEDS ASSESSMENT MISSION REPORT
29 November – 1 December 2022

Warsaw
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TABLE OF CONTENTS

I. INTRODUCTION ..........................................................................................................1

II. EXECUTIVE SUMMARY ............................................................................................1

III. FINDINGS.......................................................................................................................2
    A. BACKGROUND AND POLITICAL CONTEXT .............................................................2
    B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK ......................................................4
    C. ELECTION ADMINISTRATION ...................................................................................4
    D. VOTER REGISTRATION ..............................................................................................5
    E. CANDIDATE REGISTRATION .......................................................................................5
    F. ELECTION CAMPAIGN AND CAMPAIGN FINANCE ...................................................6
    G. MEDIA .........................................................................................................................6
    H. COMPLAINTS AND APPEALS ....................................................................................7
    I. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION ......................................7

IV. CONCLUSIONS AND RECOMMENDATION ................................................................8

ANNEX: LIST OF MEETINGS .............................................................................................9
I. INTRODUCTION

In accordance with its mandate and in anticipation of an official invitation to observe the 26 March 2023 elections to the Mejlis (parliamentary elections), the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 29 November to 1 December 2022. The NAM was composed of Alexey Gromov, ODIHR Senior Election Adviser, and Hamadziripi Munyikwa, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the 2023 elections to the Mejlis. Based on this assessment, the NAM recommends whether to deploy an ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as representatives of political parties, media, civil society and the international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs of Turkmenistan (MFA) for their assistance and co-operation in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

Turkmenistan is a presidential republic, with legislative power vested in a bi-cameral parliament composed of a directly elected 125-member lower chamber (Mejlis) and an indirectly elected 56-member upper chamber (Halk Maslahaty). Parliamentary elections will be held for all 125 members of the Mejlis through two-round majoritarian elections, in single-member districts. As a result of the most recent early presidential election in March 2022, Serdar Berdymuhamedov became the new president of the country. Reports by international bodies have repeatedly raised concerns about the lack of political pluralism and undue limitations on the exercise of fundamental human rights.

Elections are primarily regulated by the Constitution and the Electoral Code. After the last 2018 parliamentary elections, some technical changes to the Electoral Code were made in 2020 and 2021. Nevertheless, most ODIHR recommendations remain unaddressed, including those related to freedom of the media and speech, access to information, the independence of the election administration, voter and candidate registration, and the freedom to campaign.

Elections are administered by the Central Commission for Elections and Referenda (CEC), as well as subordinate level regional, district, constituency and precinct commissions, all formed for five-year terms. All CEC members are appointed by the president, while all other commissions are formed by the higher-level commissions on the basis of nominations by political parties, public associations and groups of citizens. The calendar for election activities and the precise number of PECs for the upcoming elections have not yet been determined by the time of holding the ODIHR NAM.

All citizens over 18 years of age have the right to vote, except for those declared incapacitated by a court decision based on intellectual and psychosocial disabilities as well as all convicted prisoners, regardless of the gravity of the offence, at odds with OSCE commitments and other international standards. Voter lists are entirely recompiled ahead of each election at the local level and are available
for public scrutiny. The voter register is not centralized, and there are no legal measures preventing the possibility of multiple registration or multiple voting. Some 3.4 million voters were registered ahead of the 2022 presidential election.

Citizens, aged 25 years or above, without a previous criminal record, who have been permanently resident in the country for the 10 years preceding the elections are eligible to stand as candidates. Candidates can be nominated by the three registered political parties, public associations and by groups of voters. Registration of candidates takes place at the constituency level.

Women remain underrepresented in the political and public sphere, comprising approximately 25 per cent of members of the parliament. There are no temporary legal measures aimed at increasing the number of women in elected offices, and none of the political parties apply measures to enhance participation of women as their candidates. All ODIHR NAM interlocutors were of the opinion that women and men had equal opportunities for participating in public and political life.

The law declares the right to free and equal campaign opportunities for candidates, including in terms of holding meetings and access to the media, but the election administration arranges all campaign events. All three registered political parties referenced their adherence to the President’s socio-economic development strategy as a core tenet of their planned campaigns. Campaign financing is not regulated, and all campaign expenses are financed from the state budget and managed by the CEC.

The Constitution proclaims that freedom of expression and the right to freely seek, receive and impart information are guaranteed. However, all television and radio stations are owned by the state, and there are no registered private media. The Electoral Code requires equal media coverage, free of charge, to all candidates, and all three political parties expressed satisfaction with the extent and equality of access to the media during election periods.

Election disputes can be handled by the various levels of electoral commissions or courts, although ODIHR NAM interlocutors have noted a lack of complaints lodged in several previous elections. International bodies have previously concluded that the president’s exclusive authority to appoint and dismiss judges and the lack of security of tenure for judges undermines the capacity of the judiciary to function independently of the executive.

The Electoral Code provides that party, citizen and international election observers, accredited by the CEC, are entitled to have access to all stages of the electoral process. The political parties and public associations with whom the ODIHR NAM met indicated their intention to observe the upcoming elections with the aim of enhancing transparency of election day proceedings.

While the most recent legal amendments do not address any of the previous ODIHR recommendations, all ODIHR NAM interlocutors welcomed an election observation activity for the Mejlis elections. Mindful of the declared interest of the authorities of Turkmenistan to maintain a dialogue with ODIHR on electoral reform, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the 26 March 2023 parliamentary elections.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Turkmenistan is a presidential republic, with legislative power vested in a bi-cameral parliament (Milliy Gengesh) composed of a directly elected 125-member lower chamber Mejlis and an indirectly elected 56-member upper chamber Halk Maslahaty. The Constitution provides for the separation of powers,
but the effective capacity for checks and balances of executive power by the legislature and the judiciary are severely limited.

Presidential powers are extensive and include the right to form and preside over the Cabinet of Ministers, to appoint and dismiss governors of regions, heads of cities and districts, all judges of the Supreme Court and of other courts, as well as all the members of the Central Commission for Elections and Referenda (CEC). The parliament, among other functions, initiates and adopts laws, has the nominal right to consider the policy programme of the Cabinet of Ministers, appoints certain officials upon nomination by the president and calls the elections.

The early presidential elections held on 12 March 2022 followed the announcement by then President Gurbanguly Berdymuhamedov that he would step down as president. The elections were won by Serdar Berdymuhamedov, the former president’s son, officially with 73 per cent of the vote. Indirect elections for the Halk Maslahaty were held in March 2021, with an electorate composed of members of the regional representative bodies.

The outgoing Mejlis was elected in March 2018 and was composed of members from the Democratic Party (56 seats), candidates nominated by associations of citizens, all of which politically aligned themselves with the president (47 seats) and the two remaining registered parties, the Agrarian Party and the Party of Industrialists and Entrepreneurs (11 seats each). While several ODIHR NAM interlocutors noted lack of barriers for political participation, some acknowledged no need for any new political parties, as the three existing parties do represent the entire society. On 12 January 2023, the Mejlis called the parliamentary elections for 26 March.

Though the speaker of the Mejlis is a woman, women remain underrepresented in political and public life accounting for 25 per cent of Halk Maslahaty and Mejlis members. There are no temporary legal measures to promote gender equality in elections. Nevertheless, according to all of ODIHR NAM interlocutors, including women’s groups, women face no institutional or cultural barriers to political engagement.

Although the constitution declares that fundamental freedoms of peaceful assembly, association and expression are guaranteed, international bodies and previous ODIHR reports have noted serious concerns regarding undue restrictions imposed on exercise of these freedoms.

ODIHR has observed four elections in Turkmenistan, most recently the 2018 parliamentary elections. The 2018 Election Assessment Mission report concluded that “The 25 March elections lacked important prerequisites of a genuinely democratic electoral process. The political environment is only nominally pluralist and does not offer voters political alternatives. Exercise of fundamental freedoms is severely curtailed, inhibiting free expression of the voters’ will. Despite measures to demonstrate transparency, the integrity of elections was not ensured, leaving veracity of results in doubt. Additional efforts must be undertaken to develop democratic institutions enabling people’s participation in public affairs in line

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1 Each of the country’s five regions and the city of Ashgabat elect eight members to the Halk Maslahaty; additional eight members are appointed by the president. Indirect elections of the Halk Maslahaty took place on 28 March 2021 when former President Gurbanguly Berdymuhamedov became its member and chairperson.

2 In Paragraph 26 of the 2018 Concluding observations on the fifth periodic report of Turkmenistan the UN Committee on the Elimination of Discrimination against Women “regrets the extremely low levels of the participation of women in political and public life in the State party, in particular in decision-making positions, including within the parliament, academia, the public sector, the diplomatic service and provincial, district and municipal councils”.

3 In 2020, Turkmenistan adopted a National Action Plan on Gender Equality for 2021-2025.

4 See all previous ODIHR election-related reports on Turkmenistan and the UN Human Rights Committee’s 2017 Concluding observations on the second periodic report of Turkmenistan (hereinafter UN HRC Concluding Observations), Paragraphs 42-49.
with OSCE commitments and other international obligations”. The report contained 16 recommendations to bring electoral process in Turkmenistan in line with OSCE commitments.5

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

All 125 members of the Mejlis are directly elected in two-round majoritarian elections in single member districts. A second round between the two leading candidates takes place within two weeks from election day, should no candidate receive more than 50 per cent of the votes cast.

The parliamentary elections are regulated by the 2016 Constitution (last amended in 2020) and the 2013 Electoral Code (last amended in 2021) as well as the 2012 Law on Political Parties, the 2015 Law on Organization and Conduct of Assemblies, Rallies, Demonstrations and other Mass Events, and the 2012 Law on Mass Media. The legal framework is supplemented by CEC decisions. Turkmenistan is a party to major international instruments related to democratic elections.6

Other than the technical amendments made to the Electoral Code in 2020 and 2021 largely regulating the indirect elections to the Halk Maslahaty, no other amendments have been introduced into the election-related legislation since the last parliamentary elections. Most previous ODIHR recommendations remain unaddressed, including those related to freedom of the media and speech, access to information, the independence of the election administration, voter and candidate registration, and the freedom to campaign.

C. ELECTION ADMINISTRATION

Elections are administered by the CEC, 6 Regional Election Commissions (RECs), 48 District Election Commissions (DECs), 125 Constituency Election Commissions (ConECs) and some 2,600 Precinct Election Commissions (PECs).7 All commissions are appointed for a five-year term.

The CEC holds wide regulatory powers and coordinates the activities of the lower-level commissions. It manages all aspects of the electoral process, including registration of candidates, the campaign, media coverage of candidates, the distribution of campaign funds, accreditation of observers, adjudication of complaints, and the validation of election results.

The CEC is a permanent body comprised of 15 members, last appointed in November 2019. Five members of the current CEC are women. CEC members are appointed by the president based on the input from political parties and public associations, and the chairperson is confirmed by the Mejlis. ODIHR has previously noted that this appointment method is not sufficiently independent of the executive. According to several ODIHR NAM interlocutors, the CEC sessions are open to political parties, journalists and observers. The legislation requires publication of the CEC decisions but sets no specific deadlines.

The Electoral Code stipulates that members of RECs, DECs, ConECs and PECs are appointed by the respective higher-level commission on the basis of nominations by political parties, public associations

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7 The number of PECs for the upcoming elections had not been determined by the time of deployment of the ODIHR NAM.
and groups of citizens. The CEC forms RECs and ConECs. All RECs consist of 11 members, while DECs have between 11 and 13 members, ConECs – between 9 and 11 members, and PECs – between 5 and 15 members, depending on the number of voters in each territory.\(^8\)

RECs form the lower-level DECs, perform administrative and logistical tasks in support of the lower-level commissions and aggregate the voting results in the relevant territory. DECs establish electoral precincts and form relevant PECs. ConECs have a wide range of responsibilities, including the registration of candidates, organization of campaign meetings for contestants, and establishing the voting results in the electoral district. PECs are responsible for the compilation of voter lists and the conduct of voting and counting.

By the time of holding the ODIHR NAM, the calendar of electoral activities had not yet been determined. The CEC also informed the ODIHR NAM about its plans to adjust boundaries of electoral districts in the light of recent territorial reform and raise public awareness about the voting time and alternative voting modalities, including on the official CEC website.

D. VOTER REGISTRATION

Citizens aged 18 or older have the right to vote, except for those who have been declared legally incapable by a court decision, including on the basis of intellectual or psychosocial disability, and those serving a prison sentence regardless of the gravity of the offence, which is at odds with OSCE commitments and other international standards.\(^9\)

Voter lists are compiled ahead of each election by the respective PECs based on data provided by local authorities and door-to-door verification. The registration of voters is passive, and registered voters must be resident within the corresponding electoral precinct for at least three months ahead of election day. The voter register is not centralized, and legislation does not stipulate any safeguards against multiple registration and multiple voting. Contrary to international good practice, voters can be added by PECs to a supplementary voter list on election day without an administrative or judicial control.\(^10\) Nevertheless, no ODIHR NAM interlocutors raised concerns about the integrity of voter registration.

Voter lists are on display for public scrutiny 15 days before election day at PECs. Voters have the right to appeal to PECs against incorrect inclusion or exclusion from a voter list and inaccurate records. PECs have two days to issue a decision, or make an immediate decision where such queries are made the day before or on election day. Some 3.4 million voters were registered ahead of the 2022 presidential election. A national census was held in November 2022, but the CEC informed the ODIHR NAM that it could not yet indicate how many voters were registered for these elections.

E. CANDIDATE REGISTRATION

Citizens aged 25 years or above, without a previous criminal record, and who have been permanently resident in the country for the 10 years preceding the election, are eligible to stand as candidates. Citizens with any unexpired or unpunished criminal record cannot stand for the parliament.

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\(^8\) There are 15 women among 66 REC members (23 per cent), including 1 REC chairperson and 1 REC secretary. Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will “guarantee universal and equal suffrage to adult citizens”. Deprivation of the right to vote on the basis of disability is inconsistent with Articles 12 and 29 of the UN CRPD. Paragraph 14 of UN HRC General Comment No. 25 to Article 25 of the ICCPR states that grounds for deprivation of voting rights on the basis of criminal conviction “should be objective and reasonable”. See also Paragraphs 50-51 of the UN HRC Concluding Observations.

\(^10\) According to Section I.1.2.iv of the Venice Commission’s 2002 Code of Good Practice in Electoral Matters, “polling stations should not be permitted to register voters on election day itself”.

\(^9\) Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will “guarantee universal and equal suffrage to adult citizens”. Deprivation of the right to vote on the basis of disability is inconsistent with Articles 12 and 29 of the UN CRPD. Paragraph 14 of UN HRC General Comment No. 25 to Article 25 of the ICCPR states that grounds for deprivation of voting rights on the basis of criminal conviction “should be objective and reasonable”. See also Paragraphs 50-51 of the UN HRC Concluding Observations.
Registered political parties and groups of citizens can nominate candidates between 60 and 30 days ahead of election day. An eligible group of citizens has to consist of at least 200 voters from the respective electoral district. All political parties informed the ODIHR NAM that they would nominate candidates during regional party events. Such events often combine parties and public associations, and the presence of representatives of the Ministry of Justice and the CEC is obligatory. In its conclusions, the UN Human Rights Committee expressed concerns about excessive restrictions on the establishment and functioning of political parties. The Democratic Party informed of its plans to nominate the maximum possible number of candidates. The Agrarian Party and the Party of Industrialists and Entrepreneurs did not indicate how many candidates they intended to nominate, both parties having nominated less than 30 candidates in 2018. None of the parties apply any measures to enhance participation of women as their candidates.

F. **ELECTION CAMPAIGN AND CAMPAIGN FINANCE**

According to the Electoral Code, candidates may start campaigning immediately after their registration. Many ODIHR NAM interlocutors indicated that the legislation contains provisions aimed at ensuring equal campaign opportunities for all contestants, including for holding meetings with voters and access to media. The legislation stipulates that political parties, public associations, citizens, candidates and their proxies are entitled to campaign freely. Election commissions, along with the respective local executive bodies, arrange all candidate meetings with voters, and ensure the lawful conduct of the campaign. ODIHR has previously noted that local authorities have broad discretion for determining where peaceful assemblies can be held, though no ODIHR NAM interlocutors raised concerns in this respect. Political parties and other ODIHR NAM interlocutors referred exclusively to joint campaign events coordinated by the CEC as the means for candidates’ outreach to voters. All three political parties indicated that their campaign messages will focus on socio-economic development, in line with the President’s policies, with the two opposition parties generally placing emphasis on their respective agrarian and industrial interests, though not articulating an alternative political vision overall.

There are no regulations for political campaign finance, limits for incomes and expenditures or reporting and auditing. The Law on Political Parties stipulates that expenses incurred by parties connected with their participation in elections shall be reimbursed from the state budget. Political parties noted to the ODIHR NAM that they would not incur any campaign expenses, as all campaign events and materials are directly managed and financed by the CEC.

G. **MEDIA**

The Constitution proclaims freedom of expression and the right to freely seek, receive and impart information. The Electoral Code, the Law on Mass Media and the Law on Audio-visual Media explicitly refer to freedom of expression and prohibit censorship and interference, in line with international standards and principles. However, the ODIHR NAM was informed that the restrictive media environment, cases of detention and intimidation of journalists and bloggers, and a large-scale practice of blocking websites and social networks have contributed to wide-spread self-censorship both among

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11 See Paragraph 48 of the UN HRC Concluding Observations.
12 See also Paragraph 44 of the UN HRC Concluding Observations that expresses concerns “of reports that assemblies are rare owing to a fear of reprisals for expressing any dissenting views, and that insufficient venues are designated for holding authorized assemblies”.
journalists and citizens. Previous ODIHR recommendations to ease restrictions on the right to access to information on the Internet remain unaddressed.

The State News Agency TDH and state-owned television are the main sources of political information in Turkmenistan. The media landscape is characterized by the state’s complete monopoly resulting in centralized control of all news and information services and in the lack of alternative or critical political views available to citizens. According to the authorities, the number of Internet users is increasing.

The Electoral Code regulates media coverage of campaign activities, with the State Committee on Television, Radio Broadcasting and Cinematography responsible for designating slots for free coverage of the candidates’ platforms. All political parties expressed satisfaction with access to the media and media coverage of their candidates. Media interlocutors shared with the ODIHR NAM their plans to promote public awareness about the time and voting procedures for the elections, ensure equal access of candidates to the media, but noted that no analysis of election platforms or messages would be made by journalists.

H. COMPLAINTS AND APPEALS

According to the Electoral Code, electoral participants have the right to submit complaints to any level of the election administration or the courts. The law stipulates that complaints should be considered within three days, and complaints lodged on election day or the day before would require immediate review. The decisions of election commissions can be challenged before a higher commission or a court. CEC decisions can be appealed before the Supreme Court which also acts as the appellate instance for regional courts. The Criminal Code and the Code of Administrative Offences list sanctions for electoral offences; stipulating that alleged violations should be investigated by public prosecutors and adjudicated in district courts. Notably, the CEC and other ODIHR NAM interlocutors indicated that no formal complaints were filed in previous elections.

The president has exclusive authority to appoint and dismiss judges who are appointed for renewable five-year terms and lack guarantees on the security of their tenure. International organizations have concluded that those factors undermined the capacity of the judiciary to function independently of the executive.

I. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION

The Electoral Code permits party, citizen and international election observation. The law authorises the CEC to accredit both domestic and international observers. Domestic observers may be nominated by political parties, public associations, candidates and groups of citizens, who are entitled to have access to all stages of the electoral process, including sessions of election commissions at all levels and election day proceedings. However, international bodies have noted the very limited number of non-governmental organizations working on human rights in the country and previous ODIHR reports raised strong concern regarding the independence of the domestic observers. The Women’s Union and Youth

13 Paragraph 42 of the UN HRC Concluding Observations raises concerns about “practices severely restricting freedom of opinion and expression” and “absence of a genuine independent media, […] undue restrictions on access to the Internet and disproportionate limitations on online content, […] continuous use of harassment, intimidation, torture and arbitrary arrests, detention and convictions on reportedly politically motivated charges as a retaliation tool against journalists, human rights activists, dissidents, members of religious groups and ethnic minorities”. See also the February 2021 press-release of the OSCE Representative on Freedom of the Media requesting additional information on the case of the blogger Nurgeldy Khalykov, who, in September 2020, was sentenced in Turkmenistan to four years in prison.

14 According to Internet World Stats, in July 2022, Internet penetration reached 25.3 per cent of the population.

15 See Paragraph 30 of the UN HRC Concluding Observations.

16 See Paragraph 46 of the UN HRC Concluding Observations.
Union who will be observing informed the ODIHR NAM that they would not fill in any observation forms or publish any reports on or after election day. The training of their observers is conducted by the CEC.

IV. CONCLUSIONS AND RECOMMENDATION

While the most recent legal amendments do not address any of the previous ODIHR recommendations, all ODIHR NAM interlocutors welcomed an election observation activity for the Mejlis elections. Mindful of the declared interest of the authorities of Turkmenistan to maintain a dialogue with ODIHR on electoral reform, the ODIHR NAM recommends the deployment of an Election Assessment Mission for the 26 March 2023 parliamentary elections.
ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs
Rovshen Annaberdiyev, Head, International Organizations Department
Yakup Saparov, Counsellor, International Organizations Department

Parliament
Dunyagozel Gulmanova, MP, Head, Committee on Legal Affairs, Halk Maslahaty
Muhametnazar Geldiyev, MP, Committee on Social Politics, Halk Maslahaty
Charygeldi Babaniyazov, MP, Head, Committee on Regional Development and Agriculture, Halk Maslahaty
Seydi Jumayev, MP, Deputy Head, Committee on Protection of Human Rights and Freedoms, Halk Maslahaty
Merdan Tuvakov, MP, Chairperson, Committee for Inter-Parliamentary Relations, Mejlis
Maksatberdi Gurbanov, MP, Chairperson, Local Government Committee, Mejlis
Bayli Seyilov, MP, Committee for Protection of Human Rights, Mejlis
Ishanguly Kerimov, Expert, Local Government Committee, Mejlis

Ministry of Justice
Kumush Mamedova, Head, Department of Registration of Public Associations and Religious Organizations
Oraztuvak Mammetkurbanova, Head, Legal Department
Merdan Hanov, Head, International Relations Department
Arslan Gulgeldiyev, Chief Specialist, International Relations Department

Central Election Commission for Elections and Referenda
Gulmurat Myradov, Head
Hekim Ovezov, Assistant Secretary
Aman Amanov, Lawyer

Political Parties
Yakup Sopyyev, Chairperson, Ashgabat Committee, Agrarian Party of Turkmenistan
Ata Serdarov, MP, Chairperson, Democratic Party
Ahmedbegench Nepesov, Deputy Chairperson, Democratic Party
Jahan Gurbanderdyyewa, MP, Party of Industrialists and Entrepreneurs
Setdar Setdarov, Deputy Chairperson, Party of Industrialists and Entrepreneurs
Merdan Orazmuradov, Manager, Party of Industrialists and Entrepreneurs

State Committee on TV, Radio Broadcasting and Cinematography
Yagmyr Turshekov, Deputy Chairperson
Maya Saparova, Specialist, International Relations Department

State News Agency
Gulalek Orazdurdyyeva, Head, International Information Department
Mikhail Stolonogov, Journalist

Civil Society and Academy
Yagmur Nuryyev, Director, Institute of State, Law and Democracy
Ejebay Charyyeva, Lawyer, Institute of State, Law and Democracy
Meret Tangishev, Senior Research Specialist, Institute of State, Law and Democracy
Bahar Serdarova, Chief Specialist, Women’s Union
Melike Sahetgulyyeva, Member, Women’s Union
Dovlet Durdyyev, Deputy Chairperson, Youth Union
Begench Ahmedov, Chief Specialist, International Affairs Department, Youth Union
Begench Halnepesov, Chief Specialist, International Affairs Department, Youth Union

International and Diplomatic Community
Ambassador John MacGregor, Head, OSCE Centre in Ashgabat
Representatives of embassies of Germany, Poland, Portugal, United States of America and EU Delegation

17 The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in Turkmenistan.