

Freedom of Religion in Turkmenistan

The population of Turkmenistan is 95% Muslim; only 5% belong to other confessions. The majority of Muslims are Sunnis. At present the Sunni Muslims and Russian Orthodox Christians are the only officially recognised and registered religious communities. In Soviet times only four mosques functioned in Turkmenistan; now there are more than 240 throughout the country. The Russian Orthodox Church has 12 places of worship. Other religious groups, including the Roman Catholics, Protestant Evangelical confessions (Seventh Day Adventists, Baptists, and Pentecostalists), Jehovah's Witnesses, Jews, Armenian Orthodox, Shiite Muslims, Bahais and the Hare Krishna community are not officially recognised or registered. Some of them are subject to harassment by the authorities.

The Constitution provides for freedom of religion and does not establish a state religion: however, the Government severely restricts all religious expression except for the two registered groups, Sunni Muslims and Russian Orthodox Church. Unregistered groups are discouraged from holding gatherings, disseminating religious materials or proselytising. The Government imposes severe restrictions on minority religious groups. The Constitution of Turkmenistan in Article 1 declares that: "Turkmenistan shall be a democratic, **secular state** based on the rule of law ... ". Art. 11 provides that "the state shall guarantee freedom of religion and conscience and their equality before the law. Religious organisations shall be separated from the state and may not fulfil state functions. Everyone shall have the right to define for himself his attitude towards religion, to profess any religion, or not to profess any, either individually or jointly with others, to profess and disseminate beliefs associated with his attitude to religion, and to participate in the practice of religious cults, rituals, and rites."

The specific provisions concerning the freedom of religion and religious organizations are contained in:

- Law of Turkmenistan on Freedom of Conscience and Religious Organizations of 29 May 1991 # 491-XII (amended 12/04/1993 # 835-XII, 13/10/1995 # 76-1, 06/12/1996 # 175-1)
- Decree # 2906 of the President of Turkmenistan "on State registration of religious organisations" of 6 December 1996. Regulation on the State Registration of Religious Organizations of 6 December 1996;
- Decree # 2794 of the President on Regulation of the Council (Gengesh) for Religious Affairs under the President of Turkmenistan of 13 September 1996;
- Decree # 4012 of the President on Establishment of Departments for coordination of activities of religious establishments under Ashgabat Hyakimlik (Municipality) of 5 January 1999
- Decree of the President on Establishment of Departments of Religious Affairs under the Hyakimliks (regional or city administrations) of 5 January 1999
- Decree of the President on Representatives of the Council (Gengesh) for Religious Affairs to the Hyakimliks of Etraps (District Administrative Offices) of Turkmenistan

- Regulation on the Procedure for Conducting Gatherings, Meetings, Marches and Demonstrations of 15 November 1988 # 1331-XI
- Decree # 1332-XI on Punishment for Violating the Procedure for Conducting Gatherings, Meetings, Marches and Demonstrations of 15 November 1988;
- Administrative Code of Turkmenistan came into force on 17 December 1984. Article 178² “Violation of the regulation for organising and conducting gatherings, meetings, marches and demonstrations (amended in 15 November 1988) and Article 205 “Violation of legislation on religious organisations”.
- Penal Code came into force on 12 June 1997. Article 223 "Violation of the procedure for conducting gatherings, meetings and demonstrations"
- **Law of Turkmenistan on Freedom of Conscience and Religious Organizations of 29 May 1991 # 491-XII (amended 12/04/1993 # 835-XII, 13/10/1995 # 76-1, 06/12/1996 # 175-1)**

Art. 3 of the **Law of Turkmenistan on Freedom of Conscience and Religious Organizations** provides that: "Everyone in Turkmenistan has the right to determine independently his attitude towards religion, to profess it individually or together with other persons of the same belief, or to profess none at all, to express and to disseminate beliefs related to a religious ideology and to participate in exercising religious rites."

According to Art.13 of this law all congregations are required to register with the Ministry of Justice. The request for registration should be signed by not less than 500 Turkmen citizens of at least 18 years of age. The law contains no reference to the place of residence of applicants. Before registering a religious group, the Ministry of Justice is to consult the Council (Gengesh) on Religious Affairs under the President of Turkmenistan.

The situation of small religious groups worsened after the Law on Freedom of Conscience and Religious Organisations of 1991 was amended in October 1995 to require that religious groups must have 500 adherents in order to be registered as a legal entity.

In practical terms, attempts to register religious organizations or groups other than the Sunni Muslims and Russian Orthodox have failed because of not always justified obstacles and difficulties during the registration process, such as the requirement of the Ministry of Justice that the 500 signatories must reside in the same location. As a result, all registered confessions except the Sunni Muslims and Russian Orthodox lost their registration.

The 1995 amendments effectively outlawed public worship by small religious communities, but the Law on Freedom of Conscience and Religious Organisations specifically permits persons of the same confession to worship together privately. In practice, although the law does not provide such requirements, official permission of the authorities must be obtained for any religious gathering (mass meeting or demonstration for religious purposes). During a meeting with authorities including the leaders of the Council on Religious Affairs, the Centre was informed that in practical

terms such gatherings are permitted only in order to establish the group that will organize the religious community and gather the signatures required for registration

- **Decree # 2906 of the President of Turkmenistan “on State registration of religious organisations” of 6 December 1996. Regulation on the State Registration of Religious Organizations of 6 December 1996**

This Decree established procedure for registration of religious organisations. Religious organisations registered already before adoption of this Decree had been required to reregister with the Ministry of Justice before 1 March 1997.

Regulation on state registration requires that application for registration should be signed by not less than 500 members, at least 18 years old and contains list of documents necessary for registration:

- a) Charter;
- b) Confirmation that religious association belongs to the registering religious organisation. If such confirmation can not be provided or confirmation was issued by the foreign religious association the Ministry of Justice should inquire for additional information and opinion from Gengeshi for Religious Affairs under the President of Turkmenistan (in this case decision is taken within three months);
- c) Minutes from the meeting, which adopted the Charter;
- d) List of citizens founders of religious organisation;

Charter of the religious organisation must contain information on a type, location of religious organisation, its religious affiliation, place the structure of religious organisations, right to establish enterprises, media, other religious organisations and academic institutions.

Ministry of Justice shall consider the application for registration within one month and within three months as prescribed in item b.

Ministry of Justice after considering the application can take one of the following decisions:

1. To register religious organisation – in this case the Ministry of Justice issues a Certificate on State Registration and presents registration card to the Gengeshi for Religious Affairs under the President of Turkmenistan.
2. To refuse the registration. Refusal to register religious organisation is possible in case of violation of the procedure of registration established by the Law “on Freedom of conscience and religious organisations in Turkmenistan” and if documents required to establish the religious organisation do not correspond to the requirements of the legislation of Turkmenistan. Decision on refusal of state registration must be issued in writing form within three days indicating the legal basis for refusal. Such a decision should also indicate to which legal act establishment of religious organisation and its documents required to establish religious organisation it contradicts. The above decision can be appealed to a court.

The Ministry of Justice maintains Registry of state registration of religious organisations.

Information on religious organisations registered with the Ministry of Justice is published in media.

Ministry of Justice should present within one week to the Gengeshi for Religious Affairs under the President information on changes and amendments that have been made in the Charter of religious organisation or termination of activities of religious organisation.

- **Decree # 4012 of the President on Establishment of Departments for co-ordination of activities of religious establishments under Ashgabat Hyakimlik (city Municipality) of 5 January 1999**

This Decree establishes the Department for Co-ordination of activities of religious establishments under Ashgabat Hyakimlik (Municipality) and approved Regulation on Department for co-ordination of activities of religious establishments under Ashgabat Hyakimlik (Municipality).

The Regulation in its Article 3 enumerates the functions of the Department as: co-ordination and guidance of activities of religious establishments in Ashgabat and providing them with financial, technical and other assistance.

Article 2 states that Department in its work is guided by legislation of Turkmenistan, relevant legal acts and directions of the Gengeshi for Religious Affairs under the President of Turkmenistan.

According to the Regulation, the Department has the right to:

- a) Hire specialists and scientists to work in religious establishments (mosques);
- b) To select and manage independently personnel in the mosque, to determine procedure and condition of employment in accordance with the law in force;
- c) To purchase property necessary for Department's activity;
- d) To purchase, sell, rent or give for rent real estate and moveable property.

Head of the Department and its deputies can be hired or dismissed by Mayor of Ashgabat with prior approval of the Gengeshi for Religious Affairs under the President.

- **Decree # 2794 of the President on Regulation of the Council (Gengesh) for Religious Affairs under the President of Turkmenistan of 13 September 1996**

This Decree approved Regulation on Gengeshi (Council) for Religious Affairs under the President of Turkmenistan. The Regulation defines Gengeshi as a state expert and consultative body on religious issues and enumerates the functions of the Gengeshi as: ensuring and co-ordination activities of state bodies with religious organisations of all confessions, which are active in Turkmenistan; representing before the state bodies interests of religious organisations of all confessions registered in Turkmenistan; maintaining contacts with the bodies on religion affairs of other states; studying the activities of religious organisations with respect to abidance by the religious organisations of legislation of Turkmenistan on freedom of religion and belief; considering applications and complaints from the citizens and their organisations connected to the activities of religious organisations; maintaining database on religious organisations in Turkmenistan and providing high state bodies with information on religious organisations; assisting religious organisations in preparing the staff in religious academic institutions in Turkmenistan and abroad; assisting in translation and publishing religious literature; promoting understanding and tolerance between the religious organisations of different confessions. The Gengeshi has the right to: establish expert councils from representatives of the religious organisations of all confessions in order to conduct religious expertise and provide conclusions upon requests of the state bodies and courts; upon request of the President participate in a law drafting related to the religious freedom.

The Gengeshi for Religious Affairs plays an intermediary role between the government bureaucracy and registered religious organisations, but does not promote actively inter-faith dialogue.

- **Regulation # 1331-XI on the Procedure for Conducting Gatherings, Meetings, Marches and Demonstrations of 15 November 1988**

Article 1 of the Regulation states that, exercising of the right to freedom of associations and meetings is ensured by providing to the citizens and their organisations **public building, streets, squares and other public places**.

Application for conducting meetings, marches, gatherings or demonstrations should be filed by the authorised persons of the organisations, enterprises, establishments, public organisations and group of citizens to the city or district municipality.

It should contain:

- a) Type of event (gathering, meeting, march, demonstration), its aim, place, route, approximate number of attendees, date, time;
- b) Persons responsible for security during the event.

City or district municipality has the right to request additional information. Application should be submitted ten days prior of the event. The above mentioned authority should consider and inform in writing applicant not less than five days prior to the event. In order to ensure security and public order authorities can change the place, date and other conditions connected to the event. Application for meeting, gathering or demonstration can be rejected if their aim violates the Constitution, laws and other legal acts. Rejection of the application should be motivated.

- **Administrative Code of Turkmenistan came into force on 17 December 1984. Article 178² “Violation of the regulation for organising and conducting gatherings, meetings, marches and demonstrations (amended in 15 November 1988) and Article 205 “Violation of legislation on religious organisations”.**

- **Penal Code came into force on 12 June 1997. Article 223 "Violation of the procedure for conducting gatherings, meetings and demonstrations"**

Members of unregistered religious congregations gathered in private apartments or houses, may be subject to administrative measures provided in the Article 178² of Administrative Code (fines and administrative arrest) and, after such measures are exhausted, to criminal prosecution (art. 223 of the Penal Code, "Violation of the procedure for conducting gatherings, meetings and demonstrations"). In these cases local authorities apply the regulations on procedures for conducting gatherings, meetings, marches and demonstrations," despite the fact that Article 1 of the regulations limits the scope of the application of this Regulation only to the public buildings, streets, squares and other public sites. Application of these regulations to private apartments and houses falls far beyond their scope.

The Turkmen authorities maintain that anyone can exercise his right to freedom of religion by worshipping on his own or with “other believers”, disseminating religious literature or proselytising only after having registered as required by law. The “number ” of believers is not clear but it is usually limited to the household. Bigger gatherings are considered as exceeding formula of “other believers”.

All gatherings or other activities of religious groups that have not obtained formal registration are prohibited. In this case, even if gathering has clearly religious and limited number of participants the Law on Public Associations is applied (despite the fact that this law contains a provision excluding its applicability to religious

gatherings). Such gatherings, even if members of unregistered religious congregations gather in private apartments or houses, are subject to administrative measures (fines and administrative arrest) and after such measures are exhausted, to criminal prosecution (art. 223 of the Penal Code, "Violation of the procedure for conducting gatherings, meetings and demonstrations").

In the opinion of the Centre application of this article falls beyond not only the "letter of law" but also beyond the intention of legislators

Another issue that awaits some solution is the problem of conscience objection to the compulsory military service. Turkmen law does not envisage various forms of alternative service. Therefore such a groups as Jehovah's Witnesses and Baptists are subject of criminal proceedings that usually end up with one year of imprisonment and some times repeatedly. At this stage there are no indications that any of the forms of alternative service will be introduced in Turkmenistan in a nearest future.

The authorities assert that the strict rules concerning religious organizations were adopted in order to prevent the spread of sects and/or quasi-religious groups promoting or having violence on their agenda (*Turkmen law does not define the term "religious sect"*). In the opinion of the authorities, the harassment of small congregations is intended solely to prevent the spread of fundamentalist Islamic groups that might undermine the stability of the country/society.

As noted above, the Constitution guarantees freedom of religion. But provisions of the Law on Freedom of Religion make it difficult for small congregations to exercise this right. The hostile treatment of small congregations not registered by the government contravenes the provisions of the 1990 Copenhagen Document of the Conference on the Human Dimension of the CSCE (article 9.4) reaffirming guarantees and protection of freedom of thought, conscience and religion, including the right to change religion or belief, the freedom to manifest religion or beliefs either alone or in community with others, in public or in private, through worship, teaching, practice and observance.

The National Institute of Democracy and Human Rights under the President of Turkmenistan some time ago conducted comparative studies of the legislation of over 18 European and Asian countries (including Scandinavia) concerning freedom of belief and religious organizations. Related materials and suggestions *de lege ferenda* will constitute the basis for possible changes in the law. The suggested changes include reducing the number of believers required for registration of a congregation or group and easing of other restrictions.