



**Economic and Social
Council**

Distr.
GENERAL

ECE/MP.PP/IR/2008/TKM
7 May 2008

ENGLISH
Original: RUSSIAN

ECONOMIC COMMISSION FOR EUROPE

MEETING OF THE PARTIES TO THE
CONVENTION ON ACCESS TO INFORMATION,
PUBLIC PARTICIPATION IN DECISION-MAKING AND
ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

Third meeting

Riga, 11-13 June 2008

Item 6 (a) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention:

Reports on implementation

IMPLEMENTATION REPORT SUBMITTED BY TURKMENISTAN*

Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to “keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties”. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.

* The present document was submitted late owing to resource constraints.

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. The report was prepared by specialists from the Ministry of Environmental Protection, with the participation of Turkmen civil-society associations. The third national report was based on material used for the preparation of national reports to the State Commission, reports by other units of the Ministry of Environmental Protection and reports on environmental projects being carried out with the support of international organizations.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

2. The draft report was presented at the most recent meeting of the State Commission on Turkmenistan's compliance with its commitments under conventions and programmes of the United Nations Environment Programme (UNEP) and the Commission duly approved and adopted the report. The Aarhus Convention was ratified by the Majlis of Turkmenistan on 30 April 1999. Since then work has been under way to incorporate the provisions of the Convention in the legal system of Turkmenistan and to apply them in practice. Some key notions put forward in the Convention are already present in the country's legislation and this has considerably helped in ensuring and speeding up its application in Turkmenistan.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

3. Full implementation of the Convention is being somewhat impeded by a lack of financial resources. In this context, it would be helpful if regional and national projects could be launched with the involvement of international donor organizations, with a view to building the country's capacity to implement the Convention. The related requirements should be coordinated with all interested parties.

4. A comprehensive legal system has been set in place in Turkmenistan, designed to ensure broad public participation in the application of government policies on environmental protection, on the sound use of natural resources for sustainable development and on implementation of the Aarhus Convention. Under Turkmen law, public authorities and officials are obliged to provide the necessary environmental information to the public and to help the public gain access to information. To that end a special legislative system has been devised to ensure the participation of the public and of civil-society associations in decision-making and to facilitate access to justice in environmental matters.

5. The country's supreme law - the Constitution of Turkmenistan - guarantees the right of citizens to participate in managing the affairs of society and the State, either directly or through freely chosen representatives (art. 29).

6. The rules of the Environmental Protection Act, which was adopted on 12 November 1991, and other legislation, coupled with the provisions of the Constitution of Turkmenistan, represent a distillation of the essential principles of the Aarhus Convention, namely:

(a) That society as a whole and its citizens, either as individuals or jointly in associations, have the right to receive information of an environmental nature and the right to have free access to such information;

(b) That they have the right to participate in the discussion and adoption of decisions, including government decisions, on issues of an environmental nature;

(c) That, through recourse to the State judicial system, they are able to exert pressure on those who obstruct them in the exercise of their rights.

7. The criminal and administrative law of Turkmenistan establishes the personal liability of individuals who obstruct citizens and civil-society associations in exercising their right to receive timely, complete and reliable information on the state of the environment, who intentionally conceal or distort information on the state of public health, or who refuse to provide information on pollution sources, on above-limit emissions of industrial pollutants and other harmful effects on the environment resulting from accidents.

8. Under article 85 of the Administrative Offences Code (Concealment or misrepresentation of information on environmental pollution), officials perpetrating such acts may be liable to punishment in the form of fines up to eight times the minimum wage. Article 309 of the Criminal Code of Turkmenistan (Concealment of information about circumstances dangerous to human life and health) provides for such penalties as disqualification from holding certain positions or engaging in certain activities, fines, punitive work or deprivation of liberty for periods of up to three years, according to the gravity of the consequences of such harm or other circumstances.

9. Chapter III of the Ambient Air Quality Act is entitled "Participation of civil-society associations and citizens in protecting the atmosphere". Pursuant to the provisions of article 9 of this chapter, Turkmen citizens have the right to receive reliable information from the central executive and administrative authorities and from other legal entities on the levels of atmospheric pollution and the measures that they have taken to protect and improve the quality of the air.

10. Article 34 of the Act provides that civil-society associations shall carry out public monitoring of the sources of harmful effects on the atmosphere.

11. Political and legal systems have been set in place in Turkmenistan to ensure direct and unimpeded public participation in the adoption of government decisions, including in environmental matters. Pursuant to the country's highest legislative authority - the Constitution of Turkmenistan - representatives of civil-society associations are granted membership in the

people's supreme organ of power - the Halk Maslahaty (People's Council), which enacts decisions of vital importance to the country, including on the environment. As members of the People's Council, representatives of civil-society associations have access to all information and participate in the formulation and adoption of legislative decisions, including on environmental matters (article 46 of the Constitution and the Halk Maslahaty of Turkmenistan Act).

12. Thus, in 2005 the People's Council adopted two pieces of environmental legislation of critical importance: the Land Code and the Water Code. These were submitted for nationwide public consultation. Thousands of proposals and comments were received from the public at large and from citizens associations. As members of the country's supreme organ of power, leaders and representatives of Turkmen civil-society associations were able to have a direct and tangible impact on the substance of these documents during their discussion and adoption in the People's Council.

13. The right of representatives of civil-society associations to be members of local legislative bodies, the "gengesh" and the "halk maslahaty", is also legally enshrined in the Gengesh Act and the District and Municipal Halk Maslahaty (Elections) Act.

14. Access by citizens and their associations to justice is guaranteed by the Constitution of Turkmenistan and by the Actions of Public Authorities, Civil-Society Associations, Local Governments and Officials Breaching the Constitutional Rights and Freedoms of Citizens (Appeals to the Courts) Act. Under the Act, every citizen whose constitutional rights and freedoms have been breached or encroached upon by the actions or decisions of public authorities, civil-society associations, local governments or officials shall be entitled to appeal to the courts.

15. Under the provisions of article 30 of the Environmental Protection Act, environmental associations have the right to bring actions in the economic courts for compensation for damage to nature, or to the health and property of citizens and civil-society associations.

16. All the above laws and regulations serve to ensure that the public has access to information, to establish the obligation of officials and authorities to assist the public in obtaining essential information, and to create sound legal underpinnings for the direct involvement of civil-society associations in decision-making and access to justice, in line with the provisions of paragraph 2 of article 3 of the Convention.

17. The promotion of comprehensive public awareness of the state of the environment and its protection and the formation of an environmentally concerned citizenry are designated priorities of Turkmenistan's environmental policy. To this end use is made of the media and of special targeted actions to widen the scope of the environmental information available to the public. A monthly environmental bulletin is published in Turkmenistan, together with an international scientific and practical journal on desert reclamation issues. In addition, a range of specialized scientific and popular science books, brochures, booklets, manuals and guides are published on environmental protection, alongside other materials on environmental topics. In 2006, for

example, a popular handbook was issued on the country's national environmental action plan, together with a textbook on ecology for schools and information materials on the major United Nations conventions in this area. Other publications include national periodic reports on climate change, statistical compilations on environmental protection and the use of natural resources in Turkmenistan and the country's human development report, which contains extensive environmental information. Environmental programmes are regularly broadcast on radio and television.

18. Every week the Turkmen media publish materials on the status and work of environmental agencies in their environmental programmes and sections. A weekly television programme is aired on the national television channel with the participation of the Turkmen Nature Conservation Society, on the topic of nature in Turkmenistan. These publications and broadcasts contain materials on Turkmenistan's compliance with its international environmental obligations.

19. Targeted efforts to involve the public in the discussion of key environmental texts are helping to enhance understanding of the place and the role of the public in tackling environmental problems and to raise awareness among members of the public of their access to environmental information and their ability to influence decisions in this area. The following facts illustrate some of these efforts.

20. On 5 and 6 November 2005, a two-day workshop was organized in Ashgabat for civil-society associations on global environmental issues, one of the organizers of which was the United States embassy in Turkmenistan. The workshop was attended by representatives of civil-society associations, the media and interested ministries and departments of the Turkmen Government. Participants heard and discussed reports on measures aimed at improving the environmental situation, exchanged experiences of public environmental protection work and put forward recommendations on ways of conserving the pristine state of the environment. The topic of environmental journalism was given particular attention.

21. On 16 November 2005 an international training course was launched in Turkmenistan on placing an economic value on the natural resources of the Caspian region. Over the course of five days environmental specialists from Azerbaijan, the Islamic Republic of Iran, Kazakhstan and Turkmenistan and representatives of environmental associations discussed how to identify the economic value of the natural resources of the Caspian Sea, the impact on the coastal zone of industrial activities, the management of the natural resources and protection of the environment of the Caspian region, and access to information on the state of the environment in the Caspian.

22. On 25 November 2005, a national scientific and practical conference was opened in Ashgabat, at which discussions were held over two days of progress in implementing the national environmental action plan and the provisions of the Aarhus Convention. The conference was organized by the Government of Turkmenistan with the assistance of the Organization for Security and Cooperation in Europe (OSCE) centre in Ashgabat. It was attended by leading experts, specialists from a number of different ministries and departments, representatives of

major international organizations such as the United Nations Development Programme (UNDP), the World Bank, the Asian Bank, the Turkish International Cooperation and Development Agency (TIKA), and also representatives of Turkmen civil-society associations.

23. On 23 December 2005 a workshop was held in Ashgabat on protection of the ozone layer as the duty of every individual. The workshop brought together experts in the fields of nature resource use and environmental protection, officials of the National Ozone Centre and representatives of the ministries of energy and industry. An active part was played in the workshop by representatives of civil-society associations dealing with environmental protection. They put forward a number of proposals to combat the use of ozone-depleting substances, which were endorsed by the workshop participants and submitted as recommendations to the country's ministries and departments.

24. All the above events and many other activities in the field of environmental education and awareness-raising are reported in the press, and on radio and television. This publicity was further stepped up in 2006. As an example attention is drawn to the panel discussion on the environment, held for a second successive year by the United States embassy in Turkmenistan, with the participation of government agencies, businesses, civil-society associations, international organizations, the media, schoolteachers and university lecturers, pupils and students. The event has as its focus issues of environmental information, their coverage in the media, and the role of the public in nature conservation and management.

25. Turkmenistan has set up specialized information centres for the implementation of the Aarhus Convention. This information is disseminated by the national coordinator of the Aarhus Convention in a specialized centre set up as part of the National Institute of Deserts, Flora and Fauna, and also in environmental programme information and coordination units of the Ministry of Environmental Protection.

26. Turkmenistan's current environmental information policy is designed to ensure implementation of the provisions of paragraph 3 of article 3 of the Convention.

27. In accordance with the Constitution, international law and the provisions of the Aarhus Convention, the legal system of Turkmenistan ensures the recognition of public environmental associations, organizations, movements, unions and foundations and renders them every kind of support.

28. Under the provisions of article 28 of the Constitution of Turkmenistan, citizens have the right to form associations. As set out in Turkmen law, civil-society associations are voluntary, self-governing, non-profit formations, created on the initiative of citizens, who have come together on the basis of common interests for the realization of common objectives. The founding boards of civil-society associations may include foreign citizens and legal entities. The activities and structure of such associations are governed by their charters, which are adopted at general meetings of their assemblies, congresses or conferences (articles 1, 3 and 15 of the Civil-Society Associations Act). The Act prohibits any interference by public authorities and their officials in the activities of civil-society associations (article 14 of the Civil-Society

Associations Act). The legal and organizational arrangements for the formation, registration, operation, restructuring and dissolution of civil-society associations are regulated by the Civil-Society Associations Act. The provisions of the Act are based on the Constitution of Turkmenistan and universally accepted rules of international law in this area. Throughout the country, in cities and districts in all provinces, a range of public environmental organizations are actively exercising their rights. These include: national and provincial nature conservation societies, associations of hunters and fishermen, dog breeders' societies, beekeepers' societies, the Ashgabat horticultural society, the Turkmen dog breeders' association "Turkmen Iti", the Labap UFO association, the horse breeders association and the national falconers' association. The following example is provided as an illustration of the activities of these civil-society organizations.

29. Neither the Civil-Society Associations Act, nor its articles impose any restrictions on the registration and activities of civil-society associations on the grounds of citizenship, ethnic affiliation, place of residence, areas of lawful activity, or, in the case of legal entities, on the grounds of the locality of their registered offices or of the actual centre of their activities.

30. Article 17 of the Act regulates the registration of Turkmen civil-society associations and of foreign associations, defines the documentation required for registration and sets out the appropriate time frame and procedure for registering changes and additions to the charters of civil-society associations. Pursuant to the Act, the registration of civil-society associations of all kinds is mandatory, in line with the accepted practice around the world, and is governed by the Civil Code of Turkmenistan, which requires all legal entities, including civil-society associations, to be registered under law. Under article 57 of the Civil Code of Turkmenistan, "Civil-society organizations and foundations commence operating as legal entities from the moment of registration ... Grounds must be given for any refusal to register an organization or foundation and provision must be made for appeals against such refusal and the procedure for the appeal. Appeals against refusal may be lodged in the courts."

31. In 2005, the civil-society organizations of Turkmenistan held a forum for the purpose of establishing a network in Turkmenistan and Central Asia as part of the International NGO Network on Desertification (RIOD) of the United Nations Convention to Combat Desertification. The Nature Conservation Society of Turkmenistan was selected to represent Turkmenistan in the RIOD network.

32. The second national forum of civil-society representatives was held in January 2006, in Ashgabat, under the theme "Society, environment and sustainable development". A national public council and a young people's environmental network were both established at this forum.

33. Turkmenistan is very active in international cooperation efforts to tackle global, regional and inter-State environmental problems. Working together with public authorities, representatives of the Turkmen public have been debating an environmental strategy for Eastern Europe, the Caucasus and Central Asia; they prepared proposals put forward by Turkmen civil-society organizations for the Kyiv ministerial meeting in 2003 and the Belgrade ministerial conference in 2007; and they participated in the high-level meeting of education and

environment ministries held by the United Nations Economic Commission for Europe (ECE) in Vilnius. Turkmenistan was one of the founders of the Inter-State Commission on the Sustainable Development of Central Asia, the Regional Environmental Centre for Central Asia and the International Fund for the Aral Sea, which bring together all the countries of Central Asia, alongside such international partners as UNEP, UNDP and the World Wide Fund for Nature (WWF).

34. As noted above, on 22 and 23 November 2006 a regional meeting was held in Ashgabat on further international cooperation in the sustainable development and environmental security of the Central Asian region. The meeting was attended by heads of environmental agencies, non-governmental organizations of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, and representatives of UNEP and UNDP.

35. The meeting was convened on the initiative of the Ministry of Environmental Protection of Turkmenistan, which is currently chairing the International Commission on Sustainable Development of the International Fund for the Aral Sea, and of UNEP and UNDP. The meeting concluded with the signing of a key environmental text, unparalleled in international diplomacy: the subregional Ashgabat Framework Convention on the Environment for Sustainable Development in Central Asia. The Ashgabat Convention provides a legal structure for the further strengthening of inter-State cooperation in the area of the environment and for the implementation of the Central Asian regional environmental action plan.

36. On 25 November 2006 the Asia-Pacific Subregional Environment Policy Dialogue held its fourth meeting in Ashgabat. This forum, which brings together countries in Central, North-East, South and South-East Asia and in the South Pacific, was organized by UNEP through its Regional Office for Asia and the Pacific, and the Ministry of Environmental Protection of Turkmenistan.

37. A key outcome of the dialogue was improved regional cooperation, the strengthening of the environmental community and the designation of joint action to be taken on emerging and urgent issues in the immediate and longer-term future. In a media interview organized upon the conclusion of the forum, Mr. Akim Steiner, UNEP Executive Director, drew attention to the significant contribution made by Turkmenistan in regional cooperation in the field of environmental safety, and to its initiatives, contacts and negotiations with other Central Asian countries undertaken to safeguard the environment. In his statement, the Executive Director commended Turkmenistan on its adherence to a policy of fruitful cooperation that enhanced its international credibility in the environmental community. He noted in addition that Turkmenistan was a country of enormous natural wealth which was aspiring to use that wealth to achieve not only its own welfare and sustainable development, but also peace, stability and prosperity throughout the region.

38. Under the Constitution of Turkmenistan, the country's legal system in general and the Civil-Society Associations Act in particular, citizens' rights may not be restricted or abridged, nor may their equality before the law be contingent on their ethnic affiliation, origin, property and official status, place of residence, language, religion or membership of civil-society associations (article 17 of the Constitution). This principle is embodied in article 5 of the

Civil-Society Associations Act, which stipulates that no one may be required to declare their membership of one or another civil-society association in an official document. Individuals' membership or non-membership of civil-society associations may not serve as grounds for restricting their rights or freedoms.

39. Provisions prohibiting the harassment of individuals working in and belonging to civil-society associations may be found in a number of statutory instruments of Turkmenistan. Such a rule, for example, is enshrined in the Labour Code of Turkmenistan, article 16 of which states that there may be no direct or indirect restriction of rights in employment on the grounds of sex, race, membership of civil-society associations, or other conditions.

40. Encroachments on the rights or freedoms of citizens or their persecution or harassment on the grounds of their membership of civil-society organizations are deemed to be criminal offences in Turkmenistan. Under the provisions of article 115 of the Criminal Code, the direct or indirect violation or restriction of human and civil rights and freedoms on the grounds of membership of civil-society associations shall incur punishments up to and including deprivation of liberty.

41. These measures represent sound legal safeguards for the implementation of the provisions of paragraph 8 of article 3 of the Convention.

42. The right of Turkmen citizens and foreign nationals to establish their own non-governmental associations and to have access to information and recourse to the courts is guaranteed under the Constitution of Turkmenistan. Detailed provisions governing the formation of environmental civil-society associations are also set out and affirmed in the Environmental Protection Act. This Act comprehensively defines the rights of environmental non-governmental organizations, the legal guarantees of these rights, and also the obligations of the State to uphold them. A special chapter of the Act, chapter IX, states that citizens of Turkmenistan have the right, among other things, to participate in the protection of nature, to form civil-society organizations for the protection of nature, to take part in the discussion of draft laws and other acts, to submit letters, complaints and applications on nature protection matters, to demand and receive timely and accurate information about the state of the environment and measures for its protection, to participate in decision-making on the siting and operation of environmentally harmful facilities. Article 30 of the Act establishes the powers of environmental civil-society organizations. Under this article, civil-society organizations and associations have the right to develop and adopt environmental programmes and to publicize them in the press, radio and television; to defend the rights and interests of the public in environmental protection matters; to set up public environmental inspection bodies; to participate in exercises conducted by government environmental agencies to verify compliance by legal entities with plans and measures and to call for such checks to be carried out by the relevant authorities; to raise questions about the conduct of State environmental expert studies and to participate in the work of expert groups; to require the provision of timely, complete and accurate information about the state of the environment and to receive information of interest to them; to bring actions in the ordinary courts or in the economic court for compensation for harm caused to the environment, or to the health and property of citizens and civil-society organizations.

43. These rights, as indicated above, are enshrined in numerous environmental laws. Thus, article 7 of the Specially Protected Nature Areas Act contains provisions on public participation in the organization, protection and use of specially protected nature areas. Part 2 of this article, in particular, stipulates that government agencies responsible for the administration and monitoring of specially protected nature areas are obliged, in the conduct of their work, to take full account of the proposals put forward by civil-society associations and citizens regarding the protection and sound use of these territories.

44. Chapter IV of the Water Code is entitled “Participation of civil-society associations and citizens in activities related to the sound use and protection of water resources”. Article 11 of the Code sets out the procedures and modalities for the participation of civil-society associations and citizens in the implementation of measures to ensure the sound use and protection of water resources.

45. The Public Health (Protection) Act affirms the right of citizens and civil-society associations to obtain reliable and timely information on health matters, including on the public health situation in residential areas. Under the provisions of article 8 of the Act, the Ministry of Health and Medicine is responsible for intersectoral coordination and collaboration with civil-society organizations in carrying out State public health programmes.

46. In Turkmenistan, a State standard has been established in law for the conduct of environmental impact assessments of planned economic and other activities. The standard includes a special provision for public participation in the environmental impact assessment procedure and for access to information on such assessments.

47. The right of the public and of civil-society associations to play an active, meaningful role in nature conservation and natural resource activities is also enshrined in the land, forest and health codes, in the Plant Resources (Conservation and Sound Use) Act, the Animal Resources (Conservation and Sound Use) Act, the Hunting and Game Husbandry in Turkmenistan Act, the State Environmental Expert Study Act and a number of other legal instruments. In addition, various regulations ratified by the President of Turkmenistan make provision for and regulate public participation in environmental activities. These include the statutes of the Ministry of Environmental Protection, the State Fisheries Committee, the Ministry of Water Resources and others, and such presidential decisions as the decision on measures to enhance the natural environment and a number of others, which are of binding force in the territory of Turkmenistan.

48. Thus, nowhere in the Civil-Society Associations Act, nor in its article 5 - indeed, nowhere in the entire legal system of Turkmenistan are there any discriminatory provisions on the grounds of citizenship, ethnic origin or domicile, or, in the case of legal entities, on the grounds of their registered seat or effective centre of their activities.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

49. No obstacles were encountered in the implementation of any of the paragraphs of article 3 in Turkmenistan.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

50. The following table lists the activities being carried out to build capacity to implement the Aarhus Convention in Turkmenistan:

Programme	Organization or agencies for which the programme is being conducted	Organizational level of the programme	Methodology used	Results	Funding source
Implementation of national environmental action plan	Civil-society organizations and environmental pressure groups	Local communities and environmental groups of Turkmenistan	System of small grants, conduct of extensive outreach work	Over period 2002-2003, 28 project grants allocated	Turkmen Government and UNEP
CAREC programme carried out as part of CEP (Dec. 2003-Dec 2006)	Civil-society organizations and pressure groups of the Caspian region	Local communities and environmental groups of Turkmenistan, Azerbaijan, Kazakhstan and the Russian Federation	System of small grants (151 projects under implementation), training courses, preparation of guidelines	572 permanent and 518 seasonal posts established	Turkmen Government and European Union
Application to participate in GEF programme	Civil-society organizations and environmental pressure groups	Local communities and environmental groups of Turkmenistan	System of small grants, conduct of workshops, round tables and training courses		Turkmen Government and GEF
Programme to build institutional and legal capacity for environmental management (Oct. 2006-July 2008)	Central administrative authorities and civil-society associations	Improvement of environmental institutional and legal systems, boosting public participation in efforts to tackle environmental problems	Comparative analysis, training courses, publication of popular brochures, use of media		Turkmen Government and UNEP
Project on self-assessment of capacity-building needs (2004-2006)	Central administrative authorities and civil-society associations	Ministries and departments	Comparative analysis, training courses, publication of popular brochures, use of media	Report prepared	Turkmen Government and UNEP
Building institutional and human resource capacity for improved environmental management (2005-2007)	Central administrative authorities and civil-society associations	Ministries and departments, local governments, NGOs, communities	Comparative analysis, training courses, publication of popular brochures, use of media	Report prepared	Turkmen Government and UNEP

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

51. The following websites are relevant: www.turmenistannature.gov.tm, www.undp.tkm.org.

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

52. The principal such measure is the Constitution of Turkmenistan, which was adopted on 18 May 1992. The Constitution is the central instrument of State law. Article 26 of the Constitution of Turkmenistan states that citizens of Turkmenistan have the right to obtain information if it is not a State, official or trade secret. Accordingly, information is public and accessible to all, except for information with so-called restricted access. The rules for categorizing information as a State of official secret are clearly set out in the State Secrets (Protection) Act of 24 November 1995. In this process, in accordance with article 10 of the Act, information relating to the rights, freedoms and legitimate interests of citizens and to the exercise of these rights, together with information whose classification as secret could endanger the personal safety and health of citizens, may not be so classified, and officials who take decisions to classify information of this kind shall be held liable, under the law of Turkmenistan, for any resulting harm to society, the State and its citizens. As for trade secrets, the legal principles for the disclosure, use, dissemination, storage and protection of information constituting a trade secret are set out in the Trade Secrets Act, adopted on 19 December 2000. Article 8 of the Act lists information that cannot be classified as a trade secret. Information on environmental pollution is one of the items on that list.

53. Currently, the main environmental law governing the constitutional right of citizens to obtain environmental information is the Environmental Protection Act, adopted on 12 November 1991. Article 28 of the Act states that Turkmen citizens have the right to seek and obtain timely and reliable information about the state of the environment and measures for its protection. In addition, environmental civil-society organizations the members of which are Turkmen citizens include among their powers the right to demand the provision of timely, complete and accurate information about the state of the environment and sources of pollution; about the focuses of environmental work and about government plans, programmes and activities related to the environment; and to receive information of interest to them (art. 30).

54. The Act not only establishes people's right to receive information about the state of the environment of interest to them, but also reaffirms the obligation of the State to provide information of this kind. Article 31 sets out safeguards for the rights of citizens and civil-society organizations in the area of environmental protection, and states that government environmental agencies and other duly authorized bodies are obliged to ensure the transparency and accessibility of information on the ecological state of the environment, on all types of pollution and on the results of environmental impact assessments and promptly to inform the public about environmentally hazardous accidents and other situations.

55. The same article stipulates the liability of individuals who hinder citizens and civil-society organizations in the exercise of their rights (including the right to environmental information) pursuant to the Act, or who deliberately distort or conceal information about the state of the environment. Article 34 contains more precise provisions on this point and indicates the administrative, criminal or other liability under the current legislation of Turkmenistan incurred by persons who refuse to provide timely, complete and reliable information on the state of the

environment and the use of its resources, and also on sources of pollution, or who fail to report above-limit emissions of pollutants and other harmful effects on the environment resulting from accidents.

56. Other statutes in the environmental law of Turkmenistan also contribute to the legal system regulating access to environmental information set forth in the Environmental Protection Act, namely, by reaffirming the right to environmental information and the duty to provide such information, and setting out the liability for violating that right and for failure to perform that duty. This legal system is clearly set out in the Health Code of Turkmenistan of 19 May 1992 (arts. 10, 14 and 88). Further examples of rules currently in effect in Turkmenistan which govern the handling of environmental information may be found in articles 9 and 43 of the Animal Resources (Protection and Sound Use) Act of 12 June 1997; articles 9 and 28 of the Ambient Air Quality Act of 20 December 1996, and others.

57. Under the Constitution and the legal system of Turkmenistan, citizens, and also foreign nationals, enjoy the right to have access to and to receive information, including environmental information. Article 26 of the Constitution affirms the right of citizens of Turkmenistan to obtain information. Under article 8 of the Constitution and article 3 of the Aliens in Turkmenistan (Legal Status) Act, foreign citizens enjoy the same rights and freedoms as Turkmen citizens, including access to information, in particular information on the environment. The definitions set out in the country's law conform with the provisions of article 2 of the Convention.

58. The law of Turkmenistan guarantees the right of all citizens to environmental information and contains no requirement for the applicant to state his or her interest. Under the Environmental Protection Act, Turkmen citizens have the right to submit communications, complaints and applications on environmental matters, and to seek and obtain timely and reliable information about the state of the environment and measures for its protection. There is no requirement in the Act that citizens should also be required to indicate the grounds for their interest.

59. The procedure for consideration of communications from citizens, including applications for the provision of environmental information, is governed by the Applications from Citizens (Procedure for Consideration) Act. Under article 4 of the Act, which sets out the procedure for the reception and consideration of such applications, no explanation need be given of the grounds for seeking the information. The Act states that the reception and consideration of communications may not be refused on grounds related to race, sex, age, or social or economic status. Under article 5 of the Act, foreign nationals and stateless persons have the same right to submit applications as Turkmen citizens. In accordance with the law, the information may be provided orally or in writing.

60. The Applications from Citizens (Procedure for Consideration) Act sets a time limit of 15 days for the consideration of applications. In cases where such consideration necessitates special checks or the examination of a large amount of material, the person in charge of the body responsible for considering the application stipulates the time limit for its processing and informs the applicant accordingly. At the same time, the total period for the processing of any given application may not exceed 45 days.

61. As stipulated in article 13 of the Act, failure to comply with the prescribed procedure for the consideration of applications shall render the responsible parties liable to disciplinary, administrative, confiscatory or criminal penalties.

62. In Turkmenistan, requests for information may be refused only on the grounds prescribed by law. Thus, information may be withheld:

(a) If the information is a State secret protected by law (article 26 of the Constitution);

(b) If the information sought has a bearing on international relations, public security or national defence;

(c) In cases where the requested information relates to circumstances which are in the process of being verified as part of criminal investigations, where the verification is being conducted by the central authorities or where the information is the subject of judicial proceedings;

(d) Where the information concerns confidential matters protected by law and relating to commercial, financial or industrial activities;

(e) If the information, as defined by law, relates to personal details and could affect the honour and reputation of individuals, or the interests of third parties bound by corresponding legal obligations.

63. In cases where the public authority concerned does not have at its disposal the requested information, including environmental information, under the provisions of the Applications from Citizens (Procedure for Consideration) Act, it shall notify the applicant of the public authority to which the applicant is entitled to apply or shall itself forward the application to the authority which may be able to provide the information sought. The applicant is informed of the measures taken.

64. If, under law, information may not be disclosed, it cannot be given to the applicant. Turkmen law contains no provisions allowing separate portions of classified information to be released. Refusal to provide information, if access to such information is permitted, is deemed to be a criminal offence (article 309 of the Criminal Code of Turkmenistan).

65. Under the provisions of the Applications from Citizens (Procedure for Consideration) Act, decisions to refuse applications for information shall be notified to the applicant in writing, with a reference to the legislation applicable and an indication of the grounds and justification for such refusal, together with an explanation of the procedure and the time limits for the lodging of appeals against such decisions (article 8 of the Act).

66. The regulatory system of Turkmenistan contains no requirement that a fee should be charged for environmental information. No figures are available on the number of requests submitted for information on environmental protection and natural resources; nor are separate records kept in the statistical reporting system of such requests that are refused.

**VIII. OBSTACLES ENCOUNTERED IN THE
IMPLEMENTATION OF ARTICLE 4**

67. Under conditions currently prevailing in the civil society of Turkmenistan, there are no obstacles to the implementation of the provisions of any of the paragraphs of article 4.

**IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION
OF THE PROVISIONS OF ARTICLE 4**

68. All applications for information have been satisfied in good time.

**X. WEBSITE ADDRESSES RELEVANT TO THE
IMPLEMENTATION OF ARTICLE 4**

69. There are no such websites.

**XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES
IMPLEMENTING THE PROVISIONS ON PUBLIC
PARTICIPATION IN DECISIONS ON SPECIFIC
ACTIVITIES IN ARTICLE 5**

70. All information is submitted in the form approved by the national statistics authorities. This information includes reports detailing uses of natural resources which have an impact on the environment, and also activities to protect the environment. Responsibility for ensuring that the information is correct and complete rests with those in charge of ministries, departments and organizations.

71. The information provided is based on official materials from the statistical reporting system, which follows parameters developed by the national statistics authorities and draws on data provided by ministries, departments and organizations whose activities are related to the use of natural resources, environmental monitoring and environmental protection. Information is provided on the state of the environment, uses of natural resources which have an impact on the environment and measures taken to protect the environment. Responsibility for ensuring that this information is correct and complete rests with those in charge of ministries, departments and organizations.

72. The right of citizens to receive information is enshrined in the Constitution. The Environmental Protection Act obliges public authorities to ensure the transparency and accessibility of information on the ecological state of the environment and promptly to inform the public about environmentally hazardous accidents and situations. It also establishes the liability incurred by persons who obstruct citizens and civil-society organizations in giving effect to their rights to receive information.

73. Environmental information is disseminated in Turkmenistan through the media, including the electronic media, and through the issue of special publications, including a monthly bulletin on the environment, the publication of national environmental reports, reports on the national environmental action plan and other materials.

74. In Turkmenistan, there are regular publications providing factual information about the environment and highlighting problems whose solution requires action at the government level with the participation of public institutions.

75. In addition, environmental information is disseminated through a range of workshops and round tables organized by the Ministry of Environmental Protection and its regional offices, by the National Institute of Deserts, Flora and Fauna and by such civil-society organizations as the Nature Conservation Society.

76. Currently, the Ministry of Environmental Protection of Turkmenistan has launched its own official website, containing a wide range of information in three languages (Turkmen, Russian and English).

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

77. There are no obstacles to the implementation of the provisions of this article.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

78. At the current time, the statistics authorities collect the following reporting forms from enterprises:

- (a) Form 18 KC (report on capital investments in environmental protection and the sound use of natural resources);
- (b) Form No. 1 - TGC (report on current expenditure on environmental protection);
- (c) Form No. 1 - TG (report on State monitoring of environmental protection and the sound use of natural resources);
- (d) Form No. 1 - replanting measures (report on the recultivation of land, and the removal and transfer of the fertile soil layer);
- (e) Form No. 1 - air (report on ambient air quality);
- (f) Form No. 1 - water (report on water use);
- (g) Form No. 1 - ZG (report on the formation and handling of toxic industrial waste);
- (h) Form No. 1 - DZ (report on the use and disposal of domestic waste);
- (i) Form No. 1 - hunting (report on game husbandry);
- (j) Form No. 1 - TH (report on the conduct of forestation work);
- (k) Form No. 3 - TH (report on forest clearance, maintenance and salvage logging);

- (l) Form No. 5 - TY (report on forest fires);
- (m) Form No. 12 - TH (report on forest protection)
- (n) Form No. 1 - GTS (report on nature reserves and national nature parks).

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

79. There are no such websites.

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

80. The Environmental Protection Act, the Ambient Air Quality Act, the Hydrocarbon Resources Act, the State Environmental Expert Study Act and the regulations on the procedure for the conduct of State environmental expert studies, together with other laws and regulations, contain provisions on public participation in decision-making relating to specific types of activity.

81. The definitions contained in national law and applied in practice are in line with those in article 2 of the Convention. In keeping with the stipulations of paragraph 9 of article 3 of the Convention, Turkmenistan's legal system contains no discriminatory provisions relating to public participation in decision-making on specific types of activity.

82. The Environmental Protection Act obliges legal entities to ensure that their industrial activities cause no harm to the environment and that they carry out measures to prevent and eliminate harmful biological effects on the natural environment and human health and to preserve the natural gene pool and environmental systems (art. 18).

83. As noted above, under the provisions of the legislative and regulatory instruments in effect in Turkmenistan public participation is mandatory from the very initial stage of the discussion of documents relating to investment, management and other projects (article 53 of the State Environmental Expert Study Act and article 8 of the procedure for the conduct of State environmental expert studies). The right of access by members of the public to essential information relating to decisions on the activities specified in article 6 of the Convention is guaranteed under the Environmental Protection Act. Pursuant to this Act, civil-society organizations have the right to require the submission of timely, complete and accurate information and to receive information of interest to them.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

84. No information was provided under this section by this party to the Convention.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

85. As an example of the practical implementation of provisions relating to public participation in decision-making on specific types of activity, attention is drawn to the conduct of public hearings prior to the commencement of work operations by major oil companies working in the Turkmen petroleum and gas sector.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

86. There are no such websites.

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

87. The legal framework and relevant arrangements have been set in place in Turkmenistan for public participation in the development of environmental policy and the preparation of plans and programmes. Turkmen law contains no discriminatory provisions preventing the public from participating in the development of environmental policy, plans and programmes.

88. The Environmental Protection Act accords to citizens and their associations the right to participate in the discussion of draft legislative and other instruments and to participate and be involved in decision-making designed to improve the environment (art. 28). The public is given the opportunity to have a genuine influence on the development of environmental policy, plans and programmes through existing political and legal arrangements which accord membership of the country's supreme organ of power, the Halk Maslahaty, to representatives of Turkmen civil-society associations. The Halk Maslahaty is entrusted with setting State policy and adopting the country's most important legislative decisions, including those on aspects of environmental conservation and the use of natural resources. As members of the Halk Maslahaty, representatives of civil-society associations are directly involved in the development of environmental policy and the design of programmes in this area.

89. All Turkmenistan's civil-society associations form part of the "Galkynysh" ("Revival") public movement, which enables members of the Turkmen public to be part of the decision-making process at local, regional and national levels.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

90. The public is given the opportunity to have a genuine influence on the development of environmental policy, plans and programmes through existing political and legal arrangements which accord membership of the country's supreme organ of power, the Halk Maslahaty, to

representatives of Turkmen civil-society associations. The Halk Maslahaty is entrusted with setting State policy and adopting the country's most important legislative decisions, including those on aspects of environmental conservation and the use of natural resources.

**XXI. OBSTACLES ENCOUNTERED IN THE
IMPLEMENTATION OF ARTICLE 7**

91. No information is available.

**XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION
OF THE PROVISIONS OF ARTICLE 7**

92. No information is available.

**XXIII. WEBSITE ADDRESSES RELEVANT TO THE
IMPLEMENTATION OF ARTICLE 7**

93. No information is available.

**XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC
PARTICIPATION DURING THE PREPARATION BY
PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS
AND OTHER GENERALLY APPLICABLE LEGALLY
BINDING RULES THAT MAY HAVE A SIGNIFICANT
EFFECT ON THE ENVIRONMENT PURSUANT TO
ARTICLE 8**

94. In Turkmenistan there is an established practice of submitting the country's major legislative instruments to a process of national discussion (through meetings of the maslahaty). Thus, for example, amendments to the Turkmen Civil Code and the land and water codes were discussed countrywide. Proposals and comments by members of the public were reflected in the final version of the legislative instruments that were adopted.

**XXVI. OBSTACLES ENCOUNTERED IN THE
IMPLEMENTATION OF ARTICLE 8**

95. No information is available.

**XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION
OF THE PROVISIONS OF ARTICLE 8**

96. No information is available.

**XXVII. WEBSITE ADDRESSES RELEVANT TO THE
IMPLEMENTATION OF ARTICLE 8**

97. No information is available.

**XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES
IMPLEMENTING THE PROVISIONS ON ACCESS TO
JUSTICE IN ARTICLE 9**

98. In Turkmenistan's national law there are provisions ensuring implementation of the provisions of article 9 of the Convention. In Turkmenistan, every citizen whose constitutional rights and freedoms are violated or abridged by the actions or decisions of public authorities, civil-society associations, local governments or officials is entitled to submit complaints to the courts (article 1 of the Actions of Public Authorities, Civil-Society Associations, Local Governments and Officials Breaching the Constitutional Rights and Freedoms of Citizens (Appeals to the Courts) Act). Consideration of such complaints is a mandatory requirement for the courts and it is prohibited to refuse such appeals (article 5 of the Actions of Public Authorities, Civil-Society Associations, Local Governments and Officials Breaching the Constitutional Rights and Freedoms of Citizens (Appeals to the Courts) Act).

99. Work to raise legal awareness is a priority in the national environmental action plan. To this end, a number of measures have been mounted as part of the work of the Ministry of Environmental Protection and under a range of environmental projects, including regular broadcasts on Turkmen radio and television, constant media coverage, workshops, the publication of popular leaflets and other measures, explaining the rights and ability of the public to have access to justice in environmental matters.

**XXIX. OBSTACLES ENCOUNTERED IN THE
IMPLEMENTATION OF ARTICLE 9**

100. No information is available.

**XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION
OF THE PROVISIONS OF ARTICLE 9**

101. Under the provisions of article 62 of the civil code, public organizations and individuals who submit applications to the courts to protect the rights and interests of third parties shall be exempt from the payment of court costs.

**XXXI. WEBSITE ADDRESSES RELEVANT TO THE
IMPLEMENTATION OF ARTICLE 9**

102. No information is available.

**XXXII. CONTRIBUTION OF THE IMPLEMENTATION
OF THE CONVENTION TO THE PROTECTION
OF THE RIGHT OF EVERY PERSON OF
PRESENT AND FUTURE GENERATIONS TO
LIVE IN AN ENVIRONMENT ADEQUATE TO
HIS OR HER HEALTH AND WELL-BEING**

103. No information is available.
