

REPORT
on implementation of the Aarhus Convention Compliance Committee's
recommendations on the 2003 Act on Public Associations in accordance with the
requirements of the Convention

In adopting its new Law on the Legal Status of Foreign Nationals (of 26 March 2011), its new Law on Nature Protection (of 1 March 2014) and its new Act on Public Associations (of 3 May 2014), Turkmenistan has taken into account the following recommendations of the Aarhus Convention Compliance Committee relating to the previous, 2003 Act on Public Associations:

1. A clear rule has been formulated concerning the participation of foreign citizens and persons without citizenship in establishing and participating in the operation of public associations. In particular, Article 4(1) and (2) of the 2014 Act on Public Associations provides as follows:

“The right of citizens to establish public associations is to be realized both directly, through the association of **natural persons**, and via legal entities that are public associations.

In cases provided for by this Act, **foreign citizens and persons without citizenship** who are residing in Turkmenistan may, alongside citizens of Turkmenistan, become founders of public associations”.

In addition, [under] Article 11(4) [*sic*], the members of a public association may [be] natural persons and **legal entities that are public associations**.

2. The recommendations relating to providing public associations with the right of access to environmental information, the opportunity to participate in decision-making and the right to have access to justice in environmental matters have been taken into account. Under Article 9(1) and (2) of the 2014 Law on Nature Protection, citizens of Turkmenistan (including foreign citizens and persons without citizenship) have the right:

1) to use natural resources according to established procedure, **to participate in nature protection and environmental rehabilitation activities;**

2) **to create public associations undertaking activities in the area of nature protection;**

3) **to address complaints, communications and proposals on environmental matters to public authorities and state organizations, and also to apply to judicial bodies to ensure the defence of impaired environmental rights;**

4) **to receive full, reliable information about the state of the environment in the places where they live;**

6) to put forward proposals about the conduct of public environmental review and to participate in it under the procedure laid down by the legislation of

Turkmenistan.

In accordance with Article 26 of the 2014 Act on Public Associations, for the purposes stated in its charter, a public association has the right: **to participate in decision-making by government bodies and local authorities** under the procedure provided for by this Act and by other legislation of Turkmenistan (paragraph 1(2)); to represent and protect its rights, the rights and lawful interests of its members and participants and of other citizens to government bodies and local authorities (paragraph 1(5)); to take initiatives on social issues, to submit suggestions to government bodies (paragraph 1(6)).

3. The former Article 17(3) of the 2003 Act on Public Associations, to the effect that the operation of an unregistered public association is prohibited, has been excluded from the new Act on Public Associations. Any person conducting activities on behalf of an unregistered public association is to bear responsibility in accordance with the legislation of Turkmenistan. The new Act does not set out a direct ban on the operation of unregistered public associations and their responsibility for this.

4. The recommendations to significantly decrease the threshold for the minimum number of founders required to establish public associations have been taken into account, and this is now defined in Article 18(1) of the new Act on Public Associations: **“Public associations are to be established on the initiative of their founders, of whom there must be no fewer than five”**.

5. The seventh paragraph of Article 18 of the previous, 2003 Act on Public Associations, relating to refusal to register persons who have a criminal conviction, has been clarified. In particular, Article 22(1)(6) of this [*sic*] Act has been formulated as follows: A public association may be refused registration if one of the public association’s founders is a person who has been declared legally incapable by a court or **has an unspent or incorrectly expunged conviction for committing a serious or especially serious crime**.

6. The new, 2014 Act on Public Associations has in large measure taken a more specific approach to issues of responsibility for violation of the legislation of Turkmenistan on public associations (Article 29). Thus, under Article 37(2) of the Act, if a court reverses a judgment suspending or liquidating a public association, [this] **will entail compensation by the State for all losses incurred by the public association** in connection with the illegal suspension of its operation or its liquidation (Article 37(2)).

7. The new, 2014 Act on Public Associations has restricted the powers of the Ministry of Justice to cancel the registration of a public association, to suspend their operation. The provision of the earlier Act to the effect that public associations can be liquidated and their operation terminated **if their registration is cancelled by the**

Ministry of Justice of Turkmenistan (Articles 28(2) and 32(1)) has been deleted. Under the new Act, public associations may be liquidated only by judgment of a court (Article 36).