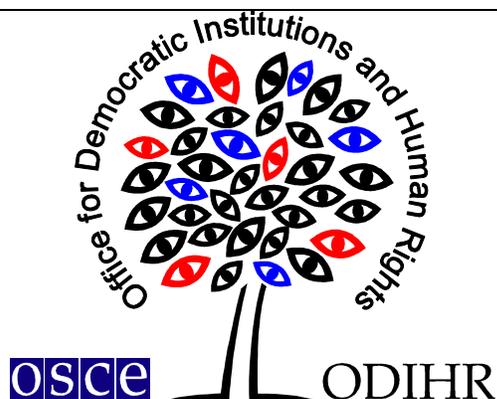


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# COMMENTS ON THE LAW OF TURKMENISTAN ON POLITICAL PARTIES

**Based on an unofficial English translation of the Law  
provided by the OSCE Centre in Ashgabat**

*The Opinion has benefited from contributions by  
members of the OSCE/ODIHR Core Group of Experts on Political Parties*

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## **I. INTRODUCTION**

1. *In May 2012, the Centre in Ashgabat of the Organization for Security and Co-operation in Europe (OSCE) submitted to the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) a request for legal comments on the Law of Turkmenistan on Political Parties, which was enacted on 13 January 2012. These Comments are provided in response to that request.*

## **II. SCOPE OF REVIEW**

2. The scope of these Comments covers only the above-mentioned Law of Turkmenistan on Political Parties (hereinafter, the “Law on Political Parties”, or the “Law”), with occasional references, where appropriate, to the Constitution of Turkmenistan (with latest amendments from 26 September 2008).<sup>1</sup> Thus limited, the Comments do not constitute a comprehensive assessment of all legislation which may regulate political parties in Turkmenistan.
3. The Comments were prepared taking into account Turkmenistan’s international obligations and commitments, including its commitments as a participating State of the OSCE, focusing in particular on freedom of association and political parties’ regulation.
4. The Comments are based on an unofficial English translation of the text of the Law, provided by the OSCE Centre in Ashgabat, and attached hereto under Annex 1. Errors from translation may result.
5. In view of the above, the OSCE/ODIHR would like to make mention that these Comments are without prejudice to any written or oral recommendations and comments to the Law on Political Parties and related legislation that the OSCE/ODIHR may wish to make in the future.

## **III. EXECUTIVE SUMMARY**

6. In order to ensure the compliance of the Law on Political Parties with international standards and good practices, it is recommended as follows:

### ***1. Key Recommendations:***

- A. to reconsider the ban on regional parties and to amend Article 3 par. 1 and Article 8 par. 2 of the Law accordingly [par. 14];
- B. to reconsider the prohibitions contained in Article 5 par. 3 regarding the names of political parties [par. 16];

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<sup>1</sup> The Constitution of Turkmenistan, adopted by Khalk Maslahaty on 26 September 2008. The most relevant Constitutional provision on freedom of association is Art. 30 of the Constitution of Turkmenistan, which provides that:

“Citizens have the right to form political parties and other public associations operating within the framework of the Constitution and laws.

Prohibited is the establishment and activity of political parties, other public, paramilitary associations, aimed at bringing violent change to the constitutional order, introducing violence in their activity, opposing the constitutional rights and freedoms of citizens, advocating war, racial, national or religious hatred, encroaching on the health and morals of the people, as well as the political parties with ethnic or religious attributes.”

- C. to remove the words “and other events” from Article 24 par. 3 [par. 23];
- D. to set reasonable limits on party funding by domestic legal entities [par. 24];
- E. to remove the provision allowing for parties’ activities to be suspended for violating the party “programme”, and to provide that suspension can be effected only for serious and/or repeated violation of the law [par. 28-29];
- F. to clarify, in Article 35, the meaning of “groundless non-participation in elections”, as a ground for terminating a party’s activities [par. 31];
- G. to remove from Article 35 the provision allowing for the activities of a political party to be terminated for “failure to submit, within one month, information on changes subject to state registration or inclusion in the register of legal persons” [par. 32];
- H. to expand the range of sanctions applicable to political parties, and require that the sanction applied be proportionate to the offence imputed [par. 34];

***2. Additional Recommendations:***

- I. to consider introducing special measures to ensure effective gender equality [par. 13]
- J. to consider lowering the 1.000 members requirement prescribed by Article 3 of the Law [par. 15];
- K. to rephrase Article 7 par. 3 so that it specifies with greater clarity which information political parties should make available to the public [par. 17];
- L. to reconsider and clarify certain provisions of Article 8 [par. 18-19];
- M. to reconsider and revise the provisions related to the adoption of the Charter and registration of Charter amendments [par. 20-21];
- N. to clarify the meaning of the right to “use the state media on equal conditions”, in Article 23 par. 7 [par. 22];
- O. to clarify the financial reporting requirements, in Article 30 [par. 27];
- P. to remove the provision requiring the restoration of suspended political party activities by a separate court decision [par. 30]; and
- Q. to amend Article 37 so as to make the seizure of party assets a complementary sanction, applicable by court decision in cases of most serious violations of the law [par. 33].

**IV. ANALYSIS AND RECOMMENDATIONS**

**1. International Standards on Freedom of Association**

- 7. The freedom of association – which includes also the freedom to form political parties – is embodied in OSCE commitments<sup>2</sup> and guaranteed by major international human rights instruments, such as Article 20 of the Universal Declaration of Human Rights<sup>3</sup> and Article 22 of the International Covenant on Civil and Political Rights<sup>4</sup> (hereinafter, “ICCPR”); the latter was acceded to by

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<sup>2</sup> See, in particular, the OSCE Concluding Document of the Vienna Meeting (1989), par. 13. 5 and 26; the OSCE Copenhagen Document (1990), in particular par. (7.6); and the OSCE Paris Document (1990).

<sup>3</sup> See Article 20 of the Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948.

<sup>4</sup> See Article 22 of the International Covenant on Civil and Political Rights, adopted on 16 December 1966 and acceded to by Turkmenistan on 1 May 1997.

- Turkmenistan in 1997. In this context, it should be noted that the Constitution of Turkmenistan expressly recognizes the prevalence of ratified treaties and of “universally accepted norms of international law” over conflicting domestic laws.<sup>5</sup>
8. Article 22 of the ICCPR, safeguarding freedom of association, has been interpreted by the UN Human Rights Committee as requiring the adoption of legislation which would “allow political parties to operate effectively and democratically”.<sup>6</sup> The UN Human Rights Committee has further stated that States “should take all necessary steps to enable [...] political parties to function without hindrance”.<sup>7</sup> Generally, freedom of [also political] association under Article 22 of the ICCPR can be subject only to such restrictions “which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”.<sup>8</sup>
  9. The most relevant OSCE commitment related to the right to associate in political parties can be found in paragraph 7.6 of the OSCE Copenhagen Document (1990), which provides that all OSCE participating States will

“respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities”.
  10. The OSCE Copenhagen Document further calls upon participating States to ensure “a clear separation between the State and political parties”, stressing that “in particular, political parties will not be merged with the State”.<sup>9</sup>
  11. Recognizing the pivotal role which political parties play in democracies, and in an effort to assist OSCE participating States in fulfilling the above-mentioned commitments, OSCE/ODIHR has drafted, jointly with Council of Europe’s European Commission for Democracy Through Law (hereinafter, the “Venice Commission”), the *Guidelines on Political Party Regulation*.<sup>10</sup> These *Guidelines* restate relevant international standards and good legislative practices from OSCE participating States, and are aimed at facilitating the adoption of adequate legal frameworks on political parties.
  12. The UN standards and OSCE commitments outlined above have served as reference for the analysis below. It ought to be mentioned from the outset that the Law of Turkmenistan on Political Parties (hereinafter, the “Law”) reflects many international standards and good practices. Nevertheless, there is still room for

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<sup>5</sup> See Article 6 of the Constitution of Turkmenistan.

<sup>6</sup> See the Report of the UN Human Rights Committee adopted at the 52<sup>nd</sup> Session of the General Assembly (Supplement No. 40 (A/52/40)), paragraph 168.

<sup>7</sup> See the Report of the UN Human Rights Committee adopted at the 57<sup>th</sup> Session of the General Assembly (Supplement No. 40 (A/57/40)), paragraph 82(20).

<sup>8</sup> See Article 22 par. 2 ICCPR.

<sup>9</sup> Paragraph 5.4 of the OSCE Copenhagen Document (1990).

<sup>10</sup> OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*, adopted at the 84<sup>th</sup> Plenary Session of the Venice Commission (15-16 October 2010), available online at [http://www.legislationline.org/download/action/download/id/3499/file/Guidelines%20on%20Political%20Party%20Regulation%202010\\_en.pdf](http://www.legislationline.org/download/action/download/id/3499/file/Guidelines%20on%20Political%20Party%20Regulation%202010_en.pdf).

improvement with regard to a number of provisions of the Law, and these Comments will seek to highlight those provisions and outline how they may be enhanced. In order to keep the Comments as short as possible, the focus is on areas that are a source of concern, rather than on the positive features of the Law. It is the hope of OSCE/ODIHR that these Comments will assist the authorities of Turkmenistan in any future amendments to the Law on Political Parties or in any decision to undertake requisite reforms.

## **2. Analysis of the Law on Political Parties**

### ***2.1 Equality, Minimum Membership, Geographical Representation and Other Requirements***

13. Article 2 par. 1 of the Law contains a general equality clause which provides that “[c]itizens of Turkmenistan shall be provided with equal rights and equal opportunities for the formation of political parties and free participation in their activities”. The experience of many OSCE participating States shows that such general clauses can be insufficient to ensure effective gender equality, and for that reason international standards<sup>11</sup> and good practice recommend the introduction of additional, special measures to help guarantee that women are able to fully enjoy their political rights. Such special measures can include the adoption of gender quotas for representation on party lists for national and local elections, and/or on executive boards and positions within the party; requirements for gender-balance on party boards tasked with selecting candidates; the introduction of gender-neutral selection criteria; and/or specialized training programmes within the party.<sup>12</sup> In the interests of ensuring *de facto* gender equality, it is recommended to consider introducing such measures into the Political Parties Law of Turkmenistan. This would also help ensure compliance with the OSCE Ministerial Council Decision No. 7/09 on “Women’s Participation in Political and Public Life”, which called upon OSCE participating States to “consider possible legislative measures, which would facilitate a more balanced participation of women and men in political and public life and especially in decision-making”, and to “encourage all political actors to promote equal participation of women and men in political parties, with a view to achieving better gender-balance representation in elected public offices at all levels of decision-making”.<sup>13</sup>
14. Article 3 par. 1, subpar. 1 of the Law provides that political parties must have territorial organizations established in all *velayats* (regions), cities and towns with the rights of *velayats*. This provision in effect precludes the establishment of regional parties. This interpretation is reinforced by Article 8 par. 2 which contains an express ban on regional parties. In this context, it bears recalling that international standards provide that such blanket bans on regional parties are disproportionate and potentially discriminatory against small parties or parties

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<sup>11</sup> See Article 4 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (acceded to by Turkmenistan on 1 May 1997). See also paragraphs 101-102 of the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*.

<sup>12</sup> See paragraphs 99-105 of the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*.

<sup>13</sup> OSCE Ministerial Council Decision MC.DEC/7/09 on “Women’s Participation in Political and Public Life”, adopted on 2 December 2009, in Athens, Greece.

representing national minorities, and should therefore be removed from relevant legislation.<sup>14</sup>

15. Should the rationale for prohibiting regional parties be based on a perceived challenge to the territorial integrity of the country, then such a sweeping ban on regional parties would appear to be a disproportionate measure. Furthermore, the banning of regional parties hinders the organic growth of small parties, and can even push supporters of unrecognized political movements to resort to undemocratic means.<sup>15</sup> For these reasons, the ban on regional parties should be reconsidered, and Article 3 par. 1 and Article 8 par. 2 of the Law should be amended accordingly.
16. Article 3 par. 1, subpar. 2 sets a minimum membership requirement of 1,000 persons for the establishment of political parties in Turkmenistan. Considered against an electorate of 2,987,324 voters,<sup>16</sup> this minimum membership requirement translates into 0.033% of the national electorate. While such a membership requirement is moderate, compared to other CIS countries, and rather similar to the one of Tajikistan (which also requires parties to have no less than 1,000 members, while having an electorate of about 3.5 million persons), at the same time the membership requirements are higher than those from Kyrgyzstan, but lower than the ones from Kazakhstan and the Russian Federation (prior to the 2012 amendments). In this context, it should be mentioned that in many OSCE participating States the minimum membership requirement is being gradually lowered: for instance, in the Russian Federation, in the past few years it was lowered from 50,000 persons to 45,000 persons, then to 40,000 and eventually (following the latest amendments of 2012) to 500 persons. Likewise, Canada, which has a population more than seven times larger than that of Turkmenistan, requires only 250 members for the formation of a political party. It should also be mentioned that some OSCE participating States require a lower number of party members, coupled with a higher number of petitions in support of a party's formation: for instance, Uzbekistan requires 20,000 signatures but only 50 founding members. It is therefore recommended to consider lowering the 1.000 members requirement prescribed by Article 3 of the Law.
17. Article 5 par. 3 of the Law provides that “[i]t shall be prohibited to call political parties using full or abbreviated names of operating parties or *of those that have terminated their activities in Turkmenistan, as well as of public associations and other organizations [...]*” (emphasis added). The italicized phrase is problematic because it would appear to bar a party which had lost its registration for any reason – including, e.g., falling below the prescribed membership threshold of 1,000 members – from reconstituting itself using the same name. In this case, the prohibition would be inappropriate because such a party would only seek to inform voters of the continuity (re-establishment) of the old (previous) party, and not attempt to mislead voters. Secondly, the open-ended nature of this ban could lead to an accumulation of banned names over time, and for that reason it might be better to add a time limit (e.g., a few years, or one round of elections) to the

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<sup>14</sup> See paragraph 80 of the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*.

<sup>15</sup> See, *mutatis mutandis*, the Venice Commission *Opinion on the Law on Political Parties of the Russian Federation*, adopted by the Council for Democratic Elections at its 40<sup>th</sup> meeting and by the Venice Commission at its 90<sup>th</sup> Plenary Session (March 2012), paragraph 29.

<sup>16</sup> Official statistics from the 12 February 2012 Presidential elections in Turkmenistan.

wording of Article 5, after which the names could become available to new parties. Thirdly, this provision would prevent public associations from transforming into a political party bearing the same name. It is therefore recommended to reconsider this provision.

18. Article 7 par. 3 of the Law provides that “[p]olitical parties shall operate transparently, while their programmes, the work they carry out and other information should be available to the public”. The vague reference to “other information” renders this provision open to discriminatory or abusive application by the implementing authority. While it is perfectly acceptable and even commendable to promote overall transparency in the functioning of political parties, some of their information or programs (e.g., campaign strategy) ought to be recognized as confidential. To protect such legitimate interests and prevent abusive or arbitrary application of the law, it is recommended to rephrase Article 7 par. 3 so that it specifies with greater clarity which information political parties should make available to the public.
19. Article 8 prohibits, *inter alia*, political parties formed on religious grounds, as well as those formed “based on professional principle”. If this would bar the formation of parties such as the christian democrats (or their Islamic equivalent), or the Labour Party, then this could breach standards of freedom and political pluralism. It is therefore recommended to reconsider and rephrase these provisions.
20. Article 8 par. 4 of the Law provides that “[p]olitical parties shall operate in accordance with the administrative and territorial division of Turkmenistan”. The exact meaning of this provision is rather unclear. To the extent that it can be construed as imposing an obligation on political parties, it should be rephrased with greater clarity so as to be clear and foreseeable and thereby enable compliance with the law.

## ***2.2 Registration Requirements and Charter Adoption Provisions***

21. Under Article 14 par. 4 of the Law, “[w]hen a political party, as well as amendments to its Charter, are being registered with the state, fees shall be charged in the amount determined by the Cabinet of Ministers of Turkmenistan”. While the amount of the registration fee is left unspecified, it bears recalling that international standards recommend such fees to be “reasonable”, “applied objectively to all parties”, and never “of such amount as to prevent the registration of legitimate parties”.<sup>17</sup> Furthermore, it is good practice “to provide an avenue by which political parties may make minor changes to their registration information, such as the primary office address or name of official contact, only through a process of notification rather than requiring re-registration”.<sup>18</sup> It is recommended to introduce similar provisions to Article 14 of the Law.
22. Article 22 par. 1 of the Law provides that “[t]he approval of the Charter and the Programme and making amendments thereto [...] shall be adopted by two thirds of the votes of the participating delegates”. A two-thirds majority vote may be appropriate for the adoption of the charter, but it is very conservative and

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<sup>17</sup> See paragraph 75 of the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*.

<sup>18</sup> *Ibidem*, paragraph 87.

unnecessarily restrictive when it comes to the adoption of the programme of a political party. The programme should be more flexible and easily adaptable to changing circumstances, and to enable such flexibility, it should be decided by non-qualified majority. Furthermore, as regards “the election of governing and audit bodies, nomination of candidates for elections”, there appears to be an inconsistency between Article 22 par. 1, requiring a two-thirds majority vote, and Article 22 par. 3, requiring a simple majority vote. It is recommended to reconsider and revise these provisions.

### ***2.3 Rights and Obligations of Political Parties***

23. Under Article 23 par. 7, political parties have the right to “use the state media on equal conditions”. Equal conditions can mean a range of things, for instance allocating equal airtime (or space, in print media) to all political parties, or simply affording equal opportunities to buy such time/space to all parties. It is therefore recommended to clarify this provision. The same applies to Article 29 par. 1, subpar. 1, which similarly mentions “equal conditions and guaranteed access to the state media”, and could also benefit from clarification. Some guidance in re-phrasing these provisions can be sought from the OSCE commitments which provide that States will ensure that “no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process”.<sup>19</sup>
24. Article 24 par. 3 prescribes that the registered political parties will be obliged “to permit representatives of the Ministry of *Adalat* of Turkmenistan to be present at open meetings and other events of political parties, their organizations and structural subdivisions.” It is understandable that Ministry representatives should be able to attend “open meetings”; however, obliging political parties to allow them access also to “other events” can be excessive. This phrase in effect opens the door for unfettered and unchecked executive interference into internal activities of political parties, which contradicts international standards and can have a chilling effect on the freedom of political association.<sup>20</sup> For these reasons, it is strongly recommended to remove the words “and other events” from Article 24 par. 3. This recommendation applies with equal force to Article 32 par. 2 subpar. 2.

### ***2.4 Party Financing***

25. Article 27 regulates political party funding. It sets a cap on donations by natural persons (which “may not exceed a tenfold amount of the average monthly salary per year in Turkmenistan”<sup>21</sup>), but does not limit donations by legal entities – except for legal entities with foreign capital or those which have been registered

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<sup>19</sup> See paragraph 7.8 of the 1990 OSCE Copenhagen Document.

<sup>20</sup> The OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation* provide that “The right of individuals to associate and form political parties should, to the greatest extent possible, be free from interference” and that “the state has the responsibility to enact legislation to prohibit interference from non-state actors as well as refrain itself from such interference” (see page 9 of the Guidelines).

<sup>21</sup> See Art. 27 par. 2 of the Law.

for less than 12 months.<sup>22</sup> This creates the risk of large domestic corporations gaining undue political influence through financial means, which could undermine the fundamental principle of democratic governance. This principle states that parties and their representatives should be accountable to the citizenry, rather than to wealthy special-interest groups.<sup>23</sup> It is therefore recommended to introduce a reasonable limit also on donations by domestic legal entities (including state-owned companies), so as to minimize the possibility of corruption or the purchase of political influence.

26. Article 27 par. 2, stipulating that “[c]ash donations to political parties may be carried out in cash and non-cash form”, raises the question of what a cash donation in non-cash form would be (perhaps a bank draft, or similar document?). It would be helpful to clarify this.
27. Article 30, dealing with financial reports of political parties, is unduly vague and replete with references to other – unspecified – laws and regulatory acts of Turkmenistan. It is unclear why the requirements on financial reporting could not be set out in the very Law on Political Party, which after all is the *lex specialis* regulating political parties. To facilitate access to and compliance with the law, it is recommended to include in Article 30 of the Law either precise requirements on financial reporting by parties, or otherwise exact references to specific laws or acts regulating the matter. While the current drafting of Article 30 makes it virtually impossible to assess the conformity of financial reporting requirements with international standards, it can nevertheless be mentioned that a compilation of relevant standards is available in the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*.<sup>24</sup> In particular, in the interests of transparency, political parties’ financial reports should include an account of non-monetary, or in-kind, contributions, and should generally be made accessible to the public.<sup>25</sup>

### ***2.5 Monitoring and Sanctioning of Political Parties***

28. Article 32 provides that the Ministry of *Adalat* shall exercise “control over the conformity of activities of political parties, their organizations and their structural subdivisions with the legislation of Turkmenistan and goals and objectives of political parties provided for in their Charters”. The Ministry of *Adalat* may, amongst others, issue written warnings to political parties (for actions that have breached the legislation of Turkmenistan or the parties’ Charter or Programme), as well as petition courts to suspend or terminate the activities of specific parties. It is not clear how and why the Ministry should monitor parties’ compliance with their political Programmes – which could be vague and declaratory documents – and issue warnings for non-compliance. It would be sufficient by democratic standards for the Ministry to check compliance with the laws in force.
29. Under Article 33 par. 1, political parties may have their activities suspended – by court decision based on an application by the Ministry of *Adalat* – if they violate

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<sup>22</sup> See Art. 27 par. 3 subpar. 4 and 9.

<sup>23</sup> See the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*, paragraphs 173 and 175.

<sup>24</sup> *Ibidem*, paragraphs 198-206.

<sup>25</sup> *Ibidem*.

the Constitution, a law or another regulatory act, “as well as their charters and programmes”, and fail to eliminate said violation within a one-month period following a written warning by the Ministry. While it is understandable that a party may have its activities suspended for a gross breach of the law, such a sanction would be disproportionate in cases where a party “violates” its “programme”. The programme of a party is a strategic and operational (rather than normative and prescriptive) document, and it is normal for parties to occasionally alter their initially planned activities so as to keep up with evolving political developments. As such, the sanction of suspension should not be applicable to parties which go beyond what was originally stated in their programme, but only for serious breaches of the law.

30. Furthermore, since suspension of activities is a particularly harsh sanction, it is recommended to amend this provision so as to provide that suspension can be effected only for *serious* and/or *repeated* breaches of the law. This would help ensure compliance with the principle of proportionality, grounded in international law.<sup>26</sup>
31. Article 33 par. 3 provides that “the restoration of activities of [suspended] political parties shall be carried out by a court of law”. This rather unprecedented provision renders the suspension of a political party essentially similar to an outright prohibition. The very concept of “suspension” normally implies a temporal restriction that is *automatically* lifted once the violation which triggered it has been eliminated, or otherwise following the elapse of a certain period of time. It is therefore recommended to remove the provision which requires the restoration of suspended political party activities through a court of law.
32. Under Article 35 par. 3, subpar. 3, the activities of a political party can be terminated in case of “groundless non-participation in elections for five years”. The term “groundless non-participation” is rather vague and open to varying interpretations, and should therefore be clarified in the interests of ensuring a correct and consistent application of the law.
33. Article 35 par. 2 further provides, in subpar. 5, that the activities of a political party can be terminated for “failure to submit, within one month, information on changes subject to state registration or inclusion in the register of legal persons”. This prescribes an extremely harsh and ultimately disproportionate sanction for omissions that could simply be the result of clerical errors. It must be recalled that the termination or dissolution of a political party is a very serious interference and should be regarded as an exceptional measure. The OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation* stress that the termination (and prohibition) of a political parties’ activities should be an exceptional sanction applicable only in extreme cases where all less restrictive measures are deemed inadequate.<sup>27</sup> Moreover, the *Guidelines* expressly stress that “Political parties should never be dissolved for minor administrative or operational breaches of

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<sup>26</sup> See Art. 22 ICCPR and paragraph 10 of the *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, endorsed by the UN Commission on Human Rights. See also the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*, paragraph 91.

<sup>27</sup> *Ibidem*, paragraphs 89-91.

conduct”.<sup>28</sup> For these reasons, it is strongly recommended to remove the respective provision from Article 35 of the Law.

34. Article 37 par. 3, subpar. 2 prescribes that in cases when the termination of activities of a political party is carried out by court decision, the property of the political party will be transferred “to the State Budget of Turkmenistan”. Such automatic seizure of assets raises concerns regarding the observance of the right to property,<sup>29</sup> particularly since a party’s activities can be terminated merely over an omission to submit, within one month, information on changes subject to state registration. In such cases, seizure of party assets would be disproportionate and unnecessary in a democratic society, and in breach of international standards.<sup>30</sup> It is therefore recommended to amend this provision so as to make the seizure of party assets a complementary sanction (i.e., additional to termination), applicable by court decision in cases of most serious violations of the law.
35. More generally, it is noted that the Law prescribes a rather limited set of sanctions that can be applied to political parties, namely: written warnings by the Ministry, and suspension or termination (plus seizure of assets) by a court of law, based upon the Ministry’s application. Such a limited range of sanctions raises the risk that parties could face disproportionate penalties, over minor breaches. To prevent that, international standards recommend that laws provide for “a variety of sanctions for non-compliance with laws”.<sup>31</sup> Examples of possible alternative sanctions include administrative fines; partial or total loss of public funding; temporary ineligibility for future state support; partial or total loss of reimbursement for campaign finance; forfeiture of previously-transferred financial support; ineligibility for fielding candidates at upcoming elections etc.<sup>32</sup> It is recommended to consider introducing such alternative sanctions into the text of the law, along with a general rule on the proportionality of sanctions, as mentioned above.

*[END OF TEXT]*

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<sup>28</sup> *Ibidem*, paragraph 92.

<sup>29</sup> The right to property is recognized in Art. 17 of the Universal Declaration of Human Rights and Art. 9 of the Constitution of Turkmenistan.

<sup>30</sup> See Art. 22 ICCPR; paragraph 10 of the *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*; and paragraph 91 of the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*.

<sup>31</sup> See the OSCE/ODIHR-Venice Commission *Guidelines on Political Party Regulation*, paragraph 225.

<sup>32</sup> *Ibidem*.

**Annex 1**

## **LAW OF TURKMENISTAN**

### **“On Political Parties”**

This Law shall govern public relations arising in connection with the exercise by citizens in accordance with the Constitution of Turkmenistan of the right to form political parties and the peculiarities of the creation, activities, reorganization and termination of activities by political parties.

#### **CHAPTER I. GENERAL PROVISIONS**

##### **Article 1. Concept of a political party**

A political party shall be a public association on a voluntary basis established in order to enable citizens of Turkmenistan to participate in the political life of society by means of the formation and free expression of their political will and participation in elections and referendums, as well as to represent the interests of citizens in government and local self-governance bodies.

##### **Article 2. Right of citizens of Turkmenistan to unite in political parties**

1. Citizens of Turkmenistan shall be provided with equal rights and equal opportunities for the formation of political parties and free participation in their activities. Citizens of Turkmenistan, on a voluntary basis, depending on their political beliefs, shall have the right to form political parties, in compliance with the established order, to freely join or refrain from joining them, to participate in the activities of political parties and to withdraw from membership without confronting any obstacles.

2. The membership of citizens in political parties or the lack thereof does not lead to limitation of their rights and freedoms. It shall be prohibited to provide or refuse to provide citizens with privileges and benefits because of their affiliation with political parties or the lack thereof.

##### **Article 3. Structure of political parties, their goals and objectives**

1. A political party shall meet the following requirements:

- 1) organizations should be established in *velayats*, cities and towns with the rights of *velayats*;
- 2) the number of members shall be no less than one thousand people;
- 3) governing and other bodies, organizations and structural subdivisions shall be located exclusively on the territory of Turkmenistan.

2. Organizations and structural subdivisions of political parties shall be established in accordance with their charters.

3. Organizations of political parties and their structural subdivisions shall form part of the structure of political parties.

4. Goals and objectives of political parties shall be set out in their charters and programmes.

5. The main goals of the political parties shall be:

1) forming public opinion;

2) improving political awareness of citizens and their political education;

3) reflection of opinions of citizens regarding various aspects of public life, and making them known to the general public, state authorities and local self-governance bodies; and

4) participation in elections and referendums (hereinafter referred to as elections), and nomination of candidates for the President of Turkmenistan, deputies of the Mejlis, members of Halk Maslakhaty and members of Gengeshes, according to the legislation of Turkmenistan.

6. Political parties shall participate in the work of state authorities and local self-governance bodies through chosen representatives under the procedure established by the legislation of Turkmenistan.

#### **Article 4. Legal basis for activities of political parties**

In Turkmenistan, the Constitution of Turkmenistan, this Law and other regulatory and legal acts of Turkmenistan governing the activities of political parties shall form the legal basis for the activities of political parties. Political parties shall operate in accordance with their charters and programmes.

#### **Article 5. Names of political parties**

1. The names of political parties shall contain the words "political party" or "party". The word "Turkmenistan" and phrases formed on its basis may be used in the names of political parties.

2. It shall not be permitted to use the names of state authorities and administration, local self-governance bodies, as well as names of citizens in the names of political parties.

3. It shall be prohibited to call political parties using full or abbreviated names of operating parties or of those that have terminated their activities in Turkmenistan, as well as of public associations and other organizations, and to use in the names of political parties words which humiliate ethnic, religious or other feelings.

4. Organizations and structural subdivisions of political parties shall use in their names the names of political parties indicating their affiliation with the entities of the administrative and territorial division of Turkmenistan.

#### **Article 6. Symbols of political parties**

1. Political parties may have symbols the exact description of which is contained in their charters.

2. Symbols of political parties shall not have similarity with the national symbols of Turkmenistan and foreign states.

3. The symbols of other political parties and public associations operating in Turkmenistan, and symbols of banned organizations may not be used as symbols of political parties.

4. It is prohibited to humiliate the State Flag of Turkmenistan, National Emblem of Turkmenistan, National Anthem of Turkmenistan, Standard of the President of Turkmenistan and state flags, emblems and hymns of foreign states, religious symbols, as well as ethnic, religious or other feelings in the symbols of political parties.

#### **Article 7. Basic principles of activities of political parties**

1. The activities of political parties shall be based on the principles of voluntariness, equal rights, tolerance, autonomy, legality and publicity. With the exception of restrictions established by this Law, political parties shall be free to define their own structure, goals and types of their activities.

2. The activities of political parties shall not restrict human rights and civil liberties guaranteed by the Constitution and laws of Turkmenistan.

3. Political parties shall operate transparently, while their programmes, the work they carry out and other information should be available to the public.

#### **Article 8. Restrictions related to the formation and functioning of political parties**

1. Prohibition shall be imposed on the creation and activities of political parties which are aimed at forcible change of the constitutional order, allow violence in their activities, oppose the constitutional rights and freedoms of citizens, propagate war, racial, ethnic, and religious enmity, threaten the health and morality of the people, as well as political parties on ethnic or religious grounds.

2. It shall not be permitted to create political parties by regions or by being based on professional principle.

3. The creation and activities of political parties of foreign states and their representation offices shall not be permitted.

4. Political parties shall operate in accordance with the administrative and territorial division of Turkmenistan.

5. In case of emergency or martial law throughout the territory of Turkmenistan or its separate localities, activities of political parties shall be carried out in accordance with the legislation of Turkmenistan.

6. Unregistered political parties shall be prohibited from carrying out their activities and the commitment of any actions on their behalf shall entail liability established by the legislation of Turkmenistan.

#### **Article 9. State and political parties**

1. The state shall guarantee the protection of the rights and legitimate interests of political parties and create equal legal opportunities for their activities.

2. The intervention of state authorities and local self-governance bodies and their officials with the activities of political parties, as well as the intervention of political parties with the activities of these bodies and officials shall not be allowed.

3. Matters that affect the interests of political parties shall be solved by state authorities and local self-governance bodies with the participation of, or upon consultation with, political parties.

4. A person in the public service or holding public office shall not have the right to use his/her work and service advantages in the interests of a political party. The above-mentioned officials in the performance of their duties, in addition to the duties of the deputies of the Mejlis of Turkmenistan, elected members of local representative bodies and self-governance bodies shall not be bound by decisions of political parties.

5. Labour and other relations of citizens working in the bodies of political parties shall be governed by relevant regulatory and legal acts of Turkmenistan.

## **CHAPTER II. CREATION OF POLITICAL PARTIES**

### **Article 10. Procedure for creation of political parties**

1. Political parties shall be created by citizens of Turkmenistan in accordance with the Constitution of Turkmenistan and this Law based on the decision of the founding meeting of the political party.

2. The founding meeting shall adopt decisions regarding the creation of a political party, approval of its Charter and Programme, election of governing and audit bodies and other decisions.

### **Article 11. Organizational committee**

1. To prepare, convene and conduct the founding meeting of a political party, citizens who have the right to be a member of a political party shall create the organizational committee consisting of no less than nine persons.

2. The organizational committee shall inform in writing the Ministry of Adalat (Justice) of Turkmenistan about the intention to create a political party and indicate its proposed name. The following shall be attached to the written notification:

1) information on members of the organizational committee (surname, name, patronymic name, birth date, citizenship, place of residence and contact numbers);

2) minutes of the meeting of the organizational committee, indicating the purpose of creation, term of powers (no more than six months), location, procedure for formation and use of funds and other property, as well as information on a member of the organizational committee authorized to open a settlement account for depositing funds of the organizational committee and conclude civil law transactions to ensure the activities of the organizational committee (surname, name, patronymic name, birth date, citizenship, place of residence, passport data: series, serial number, date of issuance, issuing authority, contact numbers).

3. On the day of receiving the written notification and other documents mentioned in para. 2 of this article, the Ministry of Adalat of Turkmenistan shall issue a written confirmation of the receipt of the documents to the authorized member of the organizational committee.

### **Article 12. Activities of the organizational committee**

1. The organizational committee shall independently determine the order of work. During its term of powers, it shall hold the founding meeting of the political party. To this end, the organizational committee shall:

- 1) carry out administrative, campaign and information work aimed at creating the organizations of political parties in *velayats* and cities and towns with the rights of *velayats*, as well as to conduct meetings to elect delegates to the founding meetings of a political party according to the representational quota established by it;
- 2) under the procedure established by the legislation of Turkmenistan, open a settlement account at a banking institution through an authorized member of the organizational committee and inform the Ministry of Adalat of Turkmenistan about this.
2. Financial and other means of the organizational committee shall be formed in accordance with this Law.
3. The organizational committee shall terminate its activities after holding a founding meeting of a political party. Financial means and other property of the organizational committee, as well as the financial report on their use with the indication of the sources of funding shall be submitted to the newly created political party.
4. If the founding meeting was not held within the term of powers of the organizational committee, the organizational committee shall terminate its activities after the expiration of this term. In this case, the remaining financial means and other property of the organizational committee shall be returned to sponsors. If there is no possibility to return the financial means and other property of the organizational committee, they shall be transferred to the State Budget of Turkmenistan.

#### **Article 13. Founding meeting of a political party**

1. The founding meeting of a political party shall be considered valid if more than a half of the delegates permanently residing in Turkmenistan and representing *velayats* and cities and towns with the rights of *velayats* are present thereat.
2. The representation of all *velayats* and cities and towns with the rights of *velayats* at the founding meeting shall be obligatory.
3. Resolutions of the founding meeting of a political party shall be adopted by the majority of votes of delegates present at the meeting.

### **CHAPTER III. REGISTRATION OF POLITICAL PARTIES**

#### **Article 14. State registration of political parties**

1. The Ministry of Adalat of Turkmenistan shall carry out the state registration of political parties with issuing an appropriate certificate thereupon.  
The Ministry of Adalat of Turkmenistan shall maintain the register of political parties which have undergone state registration.  
Political parties shall acquire the rights of legal persons by being included by an authorized state body in the corresponding register under the procedure spelled out in regulatory and legal acts of Turkmenistan.
2. The Ministry of Adalat of Turkmenistan, within one month from the date the documents were submitted for state registration, in accordance with Article 15 of this Law, shall make a decision regarding the state registration of a political party or the refusal to do so and within three working days inform the party about it in writing.
3. Amendments to the Charter of a political party should be registered by the Ministry of Adalat of Turkmenistan under the procedure established by this Law.

4. When a political party, as well as amendments to its Charter, are being registered with the state, fees shall be charged in the amount determined by the Cabinet of Ministers of Turkmenistan.

5. Organizations and structural subdivisions established in accordance with the Charter of a political party and included in the corresponding register by an authorized state body shall acquire the rights of legal persons under the procedure established by regulatory and legal acts of Turkmenistan.

#### **Article 15. Submission of documents for state registration of political parties**

1. No later than one month from the day the founding meeting of a political party is conducted the following documents shall be submitted to the Ministry of Adalat of Turkmenistan:

1) application of an authorized person of the political party in which their surname, first name, patronymic name, place of residence and contact numbers shall be indicated;

2) approved Charter (in two copies);

3) approved Programme;

4) approved copies of resolutions of the founding meeting on the creation of a political party and its organizations, approval of the Charter and the Programme, election of governing and audit bodies;

5) information on the seat of the permanent headquarters;

6) information on the founders;

7) list of citizens admitted as members; and

8) a document on payment of the registration fee.

2. The Ministry of Adalat of Turkmenistan shall issue a written confirmation about the admission of all documents to an authorized person in the political party.

#### **Article 16. Presentation of information on political parties**

1. Information on the creation of political parties and termination of their activities shall be published in the state media of Turkmenistan.

2. The Ministry of Adalat of Turkmenistan shall publish a complete list of political parties which have gone through state registration as of the 1<sup>st</sup> of January of each year in the state media of Turkmenistan.

3. It shall be prohibited to disclose and disseminate information about the members of political parties without their consent.

#### **Article 17. Refusal of state registration of a political party**

1. State registration of political parties may be refused on the following grounds:

1) incompatibility of provisions of the Charter with the Constitution of Turkmenistan, this Law and other regulatory and legal acts of Turkmenistan;

2) incompatibility of the name or the symbols with the requirements of this Law;

3) failure to submit a complete list of relevant documents under this Law or the violation of the procedure of their drawing up;

4) entering deliberately false information in the documents submitted for state registration;

5) submission of the documents necessary for state registration with violating the time limits established by this Law.

2. The programme of a political party shall be submitted to the Ministry of Adalat of Turkmenistan for informational purposes. Errors and inaccuracies in the programme of a political party, except for those indicated in Article 8 of this Law, may not be the grounds for refusing to register a political party. The Ministry of Adalat of Turkmenistan shall not have the right to require a political party to make amendments to the Programme.

3. In case a political party is refused registration, written information justifying the grounds for such refusal shall be provided within three days.

4. The refusal of state registration for a political party may be appealed against in a court of law under the procedure provided for by the legislation of Turkmenistan.

5. The removal of obstacles that led to the refusal of state registration for a political party shall be a ground to re-apply for registration. Consideration of a repeated application for registration and decision-making shall be carried out on a general basis under the procedure established by this Law.

#### **CHAPTER IV. ORGANIZATIONAL STRUCTURE OF POLITICAL PARTIES**

##### **Article 18. Charter of a political party**

1. Political parties, their organizations and structural subdivisions shall operate on the basis of, and in accordance with, the Charter.

2. The Charter of a political party should contain:

1) name (including the abbreviated name), goals and objectives;

2) description of symbols;

3) seat of the headquarters;

4) types of activities carried out by governing bodies and the procedure for decision-making;

5) conditions and the procedure of entry into membership, withdrawal and exclusion from membership, and rights and obligations of members;

6) procedure for keeping the records of members;

7) procedure for the creation, reorganization and termination of activities of a political party, its organizations and structural subdivisions and in the event of terminating its activities, the procedure for distribution of property;

8) procedure for electing the governing and audit bodies of a political party, its organizations and structural subdivisions, and their terms of powers;

9) procedure for making amendments to the Charter and the Programme;

10) procedure for nominating candidates for the elections held in Turkmenistan;

11) grounds and procedure for the recall of nominated and registered candidates for the elections;

12) sources of funds and other property, and property rights; and

13) rights of political parties, organizations and structural subdivisions regarding the management of funds and other assets, and the procedure for keeping financial records.

3. Other provisions related to activities of political parties that do not contravene the legislation of Turkmenistan may be indicated in their charters.

##### **Article 19. Programme of a political party**

1. A political party shall have the Programme that determines its areas of activities, goals and objectives, as well as the ways of achieving these goals and objectives.
2. Information on the amendments to the Programme of a political party shall be submitted to the Ministry of Adalat of Turkmenistan within one month.

**Article 20. Membership in political parties**

1. Membership in political parties shall be voluntary and based on the independent expression of every citizen's will, and carried out as fixed membership.
2. A citizen of Turkmenistan who permanently resides in Turkmenistan and has reached the age of 18 may be a member of a political party. A citizen may be a member of only one political party. It shall not be permitted for citizens of foreign states, stateless persons and citizens recognized as incapable by a court of law to be members of political parties of Turkmenistan.
3. Admission to membership in political parties shall be carried out under the procedure established by the Charter on the basis of a written application of a person who has expressed his/her desire to become a member of a political party .
4. Members of political parties shall participate in their activities under the procedure established by the Charter and acquire the rights and perform the obligations in accordance with the Charter.
5. Members of political parties shall be registered therein under the procedure established by the Charter, and shall have the right to elect and to be elected to the governing bodies of political parties, their organizations and structural subdivisions, to be informed about the activities of elected bodies of political parties and to appeal against the activities and decisions of political parties in accordance with the procedure established by the Charter.
6. It shall not be permitted for the military, officers and employees of military or law enforcement agencies to be members of political parties or support them.
7. Voluntary withdrawal from membership of a political party, death, exclusion from membership of a political party or joining another political party shall be grounds for the termination of membership in any political party.

**Article 21. Governing bodies of a political party and its organizations**

1. A meeting shall be the highest governing body of a political party.
2. A conference or a general meeting shall be the highest governing body of the organizations of political parties.
3. At the meeting of a political party, the governing and audit bodies shall be elected for a term not exceeding five years.
4. A conference or a general meeting of the organizations of a political party shall elect the governing and audit bodies of the organization for a period of time established by the Charter.

**Article 22. Procedure for approval of the Charter and the Programme and adoption of other resolutions of a political party**

1. The approval of the Charter and the Programme and making amendments thereto, the election of governing and audit bodies, nomination of candidates for elections, and the creation, re-organization and termination of activities of a political party shall be

within the competence of the meeting and resolutions of the meeting shall be adopted by two-thirds of votes of the participating delegates.

2. A meeting of a political party shall be recognized as valid with the participation of delegates from *velayat* organizations and organizations of cities and towns with the rights of *velayats* according to the norms of representation.

3. Decisions by organizations of a political party regarding the election of governing and audit bodies, and nomination of candidates for elections shall be adopted at conferences and general meetings by a majority of votes of the participants.

4. Decisions of political parties and their organizations regarding the election of governing and audit bodies, and nomination of candidates for elections shall be adopted by voting conducted under the established procedure.

5. Decisions regarding other matters of activities by political parties, their organizations and structural subdivisions shall be adopted according to the Charter of a political party.

## **CHAPTER V. RIGHTS AND OBLIGATIONS OF POLITICAL PARTIES AND ENSURING OF THEIR ACTIVITIES**

### **Article 23. Rights of political parties**

Political parties which have gone through state registration shall have the right to:

- 1) openly disseminate information about their activities and freely propagate points of view, goals and objectives;
- 2) under the procedure established by this Law, make proposals to state authorities and local self-governance bodies regarding the development of decisions;
- 3) participate in elections in accordance with the legislation of Turkmenistan;
- 4) establish organizations and structural subdivisions, re-organize them or terminate their activities;
- 5) under the procedure established by the legislation of Turkmenistan, organize and hold meetings, gatherings, marches and other mass events;
- 6) under the prescribed procedure, establish media outlets and conduct publishing activities, and carry out political and educational events;
- 7) use the state media on equal conditions;
- 8) maintain relations with other political parties and public associations;
- 9) protect the rights and legitimate interests of their members in connection with their political activities as well as represent their interests in government offices and local self-governance bodies;
- 10) carry out entrepreneurial activities in accordance with the legislation of Turkmenistan and the Charter;
- 11) under the established procedure, forge international relations;
- 12) carry out other activities provided for by this Law and other regulatory and legal acts of Turkmenistan.

### **Article 24. Obligations of political parties**

1. Political parties which have gone through state registration shall be obliged to:

- 1) observe in their activities the requirements of the Constitution, laws and other regulatory and legal acts of Turkmenistan and their charters;
- 2) submit to the Ministry of Adalat of Turkmenistan, within the prescribed time limits, information on the number of members in organizations, the seat and the address of

the permanent headquarters, data on nominated and registered candidates, a copy of the minutes on the election results approved by the relevant election commission, and information about the leaders;

3) permit representatives of the Ministry of Adalat of Turkmenistan to be present at open meetings and other events of political parties, their organizations and structural subdivisions;

4) notify, on a timely basis, the relevant election commission about the conduct of activities to nominate candidates for the elections, and invite their representatives to these activities;

5) within the deadlines established by the legislation of Turkmenistan, submit reports on financial activities to state authorities.

2. Political parties, their organizations and structural subdivisions, as well as their officials, shall be responsible in their activities for the protection of the interests of a person, society and the state, the protection of property and public order, and ensuring peace and security.

### **Article 25. Property of political parties**

1. For material support of the objectives provided for by this Law, the Charter and the Programme, political parties may acquire property under the procedure established by the legislation of Turkmenistan.

2. Political parties, their organizations and structural subdivisions with the rights of legal persons shall have separate property and they shall use the right to own property under the procedure and within the limits established by the legislation of Turkmenistan and their Charters. They shall have an independent balance sheet, estimate of expenses, and a separate account in banking institutions. The property of a political party, including the property of its organizations and structural subdivisions, shall form, as a whole, the property of a political party. Members of a political party shall not be the owners of its property.

3. The property of a political party may be used only for the implementation of the goals and objectives provided for by the Charter and the Programme.

4. Officials elected or appointed in accordance with the Charter of a political party shall be responsible for carrying out financial activities of a political party, its organizations and structural subdivisions with the rights of a legal person.

5. Political parties, their organizations and structural subdivisions with the rights of a legal person shall be liable for their obligations in accordance with the procedure set forth by the legislation of Turkmenistan and their Charters.

6. Political parties are not liable for the obligations of their members, nor are members of political parties liable for the obligations of political parties.

### **Article 26. Funds of political parties**

1. Financial means and other property of political parties shall be formed from the following sources:

1) admission and membership fees in accordance with the Charter;

2) donations;

3) profits from events conducted by political parties, their organizations and structural subdivisions as well as from entrepreneurial activities of an auxiliary nature;

4) money transfers received for civil law transactions; and

5) other sources not prohibited by the legislation of Turkmenistan.

2. Financial means of political parties shall be deposited in accounts opened at banking institutions registered in Turkmenistan. Political parties, their organizations and structural subdivisions with the rights of a legal person shall have the right to open a settlement account only in one banking institution.
3. Political parties shall be prohibited from storing funds, precious metals and other valuables in banks, financial and other institutions located in foreign states.

**Article 27. Donations to political parties**

1. Political parties shall have the right to accept donations from natural and legal persons in the form of cash and other property which are confirmed by respective documents and with the indication of sources.
2. Cash donations to political parties may be carried out in a cash and non-cash form. The amount of cash donations to political parties from one person may not exceed a tenfold amount of the average monthly salary per year in Turkmenistan.
3. Political parties shall be prohibited from accepting donations from:
  - 1) foreign states, and natural and legal persons of foreign states;
  - 2) stateless persons;
  - 3) minor (underage) citizens of Turkmenistan;
  - 4) legal persons of Turkmenistan that have foreign capital in their charter capital;
  - 5) international organizations and international public movements;
  - 6) state authorities and local self-governance bodies in cases not provided for by the legislation of Turkmenistan;
  - 7) military units, military organizations and law enforcement agencies;
  - 8) charitable and religious organizations, as well as from organizations established by them;
  - 9) legal persons which have been registered for less than twelve months; and
  - 10) unknown sources.
4. The participation of representatives of political parties in congresses, scientific and other events held at the expense of the hosting party may not be considered as an unlawful acceptance of donations.
5. In case of accepting donations as mentioned in para. 3 of this article, political parties shall return them to those from who they received them, and if it is not possible, they should transfer them to the State Budget of Turkmenistan.
6. Non-cash donations from legal persons shall, in accordance with the established procedure, be transferred through banking institutions to settlement accounts of political parties.
7. Donations of personal means by natural persons to political parties in a cash or non-cash form shall be accepted upon presentation of a passport or any other document in lieu thereof by banking institutions or by completing payment documents, and shall be transferred to settlement accounts of political parties in accordance with the established procedure.
8. The value of donations accepted by political parties in the form of property shall be determined in accordance with the legislation of Turkmenistan and relevant information, including on those who provided donations, shall be specified in final financial reports of political parties.

**Article 28. Economic activities of political parties**

1. Political parties shall be independent in their economic activities carried out for purposes of material support of their objectives, including such issues as entrepreneurship, receiving of financial means and acquiring of other property and remuneration, and shall implement them in accordance with the legislation of Turkmenistan, the Charter and the Programme. Political parties shall be entitled to charitable activities.
2. Political parties may, in order to achieve the goals and objectives set forth in the Charter and the Programme, under the established procedure, be engaged in the following types of entrepreneurial activities:
  - 1) implementation of informational, advertising, printing and publishing activities to propagate their points of view, goals and objectives, and make the results of their activities public;
  - 2) production and sales of symbols, souvenirs, gifts, as well as print and polygraphic products; and
  - 3) sales and lease of property belonging to them.
3. Political parties shall not have the right to act as founders of commercial organizations, make profits from shares and securities or get involved in other types of entrepreneurial activities except for cases provided for in para. 2 of this article.
4. Profits from entrepreneurial activities carried out by political parties may not be distributed among their members and shall be used only for purposes provided for by the Charter.
5. The results of economic activities carried out by political parties shall be specified in the final financial report in accordance with the established procedure.
6. Funds, property and other income received from unpermitted sources shall be transferred to the State Budget of Turkmenistan.

#### **Article 29. State support for political parties**

1. Political parties, when carrying out their activities in accordance with their Charter and Programme, shall have the right to use the following state support:
  - 1) ensuring of equal conditions and guaranteed access to the state media;
  - 2) provision of state-owned premises and means of communication under the established procedure;
  - 3) ensuring of equal conditions for participation in elections, as well as social, political and other events.
2. The procedure for reimbursement of expenses of political parties connected with their participation in elections shall be established by the electoral legislation of Turkmenistan.
3. When the activities of a political party are suspended or terminated, their state support shall be suspended or terminated respectively.

#### **Article 30. Financial reports of political parties**

1. Political parties, their organizations and structural subdivisions with the rights of a legal person shall compile financial and accounting reports under the procedure and time limits established by the legislation of Turkmenistan.
2. Within the established timeframe, political parties shall submit their final financial reports on income and expenditures to state authorities.
3. The sources of funds and the amount of money received in the account, information on the use of these funds as well as the data about the property of political parties with

the indication of prices shall be included in the final financial reports of political parties, their organizations and structural subdivisions with the rights of a legal person. The expenses of political parties, their organizations and structural subdivisions connected with their involvement in the preparation for elections and in elections themselves shall be specified in the reports separately.

4. The form of a financial report shall be determined by regulatory and legal acts of Turkmenistan and in accordance therewith, under the procedure established by political parties.

### **Article 31. Participation of political parties in elections**

1. To participate in elections, political parties shall, under the established procedure, submit to the Central Election and Referendum Commission in Turkmenistan a copy of their state registration certificate, nominate candidates and use other rights in accordance with the electoral legislation of Turkmenistan.

2. Political parties that have gone through state registration before the adoption of a decision to conduct elections shall have the right to participate in the elections.

3. Political parties shall have the right to participate independently in the elections, as well as in accordance with the legislation of Turkmenistan the right to participate in the elections together with other political parties and public associations.

4. Political parties shall be obliged to publish information on the nomination of candidates for elections and their programmes in the media under the procedure determined by the electoral legislation of Turkmenistan.

## **CHAPTER VI. MONITORING OF ACTIVITIES OF POLITICAL PARTIES**

### **Article 32. Control over activities of political parties**

1. Control over the conformity of activities of political parties, their organizations and their structural subdivisions to the legislation of Turkmenistan and goals and objectives of political parties provided for in their Charters shall be exercised by the Ministry of Adalat of Turkmenistan.

2. The Ministry of Adalat of Turkmenistan shall have the right:

1) to familiarize itself, once a year, with the information and relevant documents on the activities of political parties, their organizations and their structural subdivisions;

2) to send its representatives to participate in open meetings and other activities conducted by political parties, their organizations and subdivisions;

3) to issue written warnings to political parties, their organizations and their structural subdivisions for actions contravening the legislation of Turkmenistan, the Charter and the Programme of a political party; and

4) to submit to a court of law, on the grounds specified in this Law, a statement of claim concerning the suspension or termination of activities by political parties, their organizations and their structural subdivisions.

## **CHAPTER VII. SUSPENSION, REORGANISATION AND TERMINATION OF ACTIVITIES OF POLITICAL PARTIES**

### **Article 33. Suspension of activities of political parties**

1. In case political parties, their organizations and structural subdivisions violate the Constitution of Turkmenistan, this Law and other regulatory and legal acts of Turkmenistan, as well as their charters and programmes, the Ministry of Adalat of Turkmenistan shall issue a written warning to them and set a deadline of at least one month for redressing these violations. If political parties fail to eliminate the aforementioned violations within the set deadline, activities of such political parties may be suspended by a court's decision based on a statement of claim by the Ministry of Adalat of Turkmenistan for up to six months.

2. For the period the activities of political parties are suspended, their members and leaders shall be prohibited from speaking on behalf of political parties in the media, holding meetings, gatherings and other mass events as well as from conducting debit operations in bank accounts of political parties, except for payments relating to economic activities of political parties, employment contracts, compensation of damages caused by their actions, and also payment of taxes and fines.

3. When the violations that provided grounds for the suspension of activities of political parties have been eliminated, the restoration of activities of political parties shall be carried out by a court of law; also, activities of political parties may be restored earlier.

4. No suspension of activities of political parties shall be permitted from the day of publishing officially the decision of an authorized state body of Turkmenistan regarding the calling of elections before the official announcement of the outcome of these elections.

#### **Article 34. Reorganization of activities of political parties**

1. Reorganization of activities of political parties shall be carried out by the meeting under the procedure provided for by the legislation of Turkmenistan and the charters of political parties.

2. A decision regarding the reorganization of activities of political parties shall be submitted to the Ministry of Adalat of Turkmenistan and an authorized state body maintaining the register of legal persons.

3. State registration of reorganized political parties and their inclusion by an authorized state body in the register of legal persons shall be carried out on a general basis under the procedure established by this Law and other regulatory and legal acts of Turkmenistan.

#### **Article 35. Termination of activities of political parties**

1. Political parties may terminate their activities based on the decision of their meeting or a court's decision. The decision of the meeting or a court's decision that has entered into legal force regarding the termination of activities of political parties shall be submitted to the Ministry of Adalat of Turkmenistan and an authorized state body maintaining the register of legal persons.

2. Activities of political parties may be terminated by a court's decision in the following cases:

- 1) violations of the requirements set forth in Article 8 of this Law;
- 2) failure to eliminate the revealed violations of the Law within the specified deadlines;
- 3) groundless non-participation in elections for five years;

- 4) regular and gross violations of the legislation of Turkmenistan, human rights and civil liberties, as well as regular commitment of actions contravening the goals provided for by the Charter;
  - 5) failure to submit, within one month, information on changes subject to state registration or inclusion in the register of legal persons;
  - 6) submission of false information for state registration and inclusion in the register of legal persons;
  - 7) if the total number of members is less than the one established by this Law.
3. The statement of claim to a court of law regarding the termination of activities of a political party on the grounds specified in para. 2 of this article shall be submitted by the Ministry of Adalat of Turkmenistan.
4. A court of law shall not terminate the activities of political parties starting from the day of official publication of the decision by an authorized state body of Turkmenistan regarding the calling of elections before the official announcement of the outcome of these elections, except for cases mentioned in para. 1 Article 8 of this Law.
5. In case the activities of political parties are terminated on the basis of a court decision, their activities in any form in Turkmenistan shall be prohibited.

**Article 36. Appeal against suspension and termination of the activity of political parties**

1. A decision to suspend or terminate activities of political parties, their organizations and structural subdivisions may be appealed against under the procedure established by the legislation of Turkmenistan.
2. Termination of proceedings resulting from the abolition of the court decision on the suspension or termination of activities of political parties, their organizations and structural subdivisions may provide grounds for claims for damages. Compensation for any damage inflicted on political parties shall be carried out in accordance with the legislation of Turkmenistan.

**Article 37. Results of the re-organization and termination of activities of political parties**

1. The Ministry of Adalat of Turkmenistan shall publish information on the re-organization or termination of activities of political parties in the state media.
2. Resolution of property and other matters in connection with the termination of activities of political parties shall be conducted under the procedure established by the legislation of Turkmenistan.
3. Property of political parties that have terminated their activities after the settlement of obligations shall be distributed in the following order:
  - 1) if the termination of activities of political parties is carried out by a decision of the meeting - for purposes provided for by the Charter and the Programme of the political party;
  - 2) if the termination of activities of political parties is carried out by a court decision – to the State Budget of Turkmenistan.
4. After the re-organization or termination of activities of political parties, their certificate of state registration shall be deemed void, and political parties shall be excluded from the register of legal persons.

**CHAPTER VIII. FINAL PROVISIONS**

**Article 38. Liability for the breach of this law**

Violation of this law shall entail liability under the procedure established by the legislation of Turkmenistan.

**Article 39. Putting the law into force**

This Law shall come into force from the day of its official publication.

**President of Turkmenistan  
Gurbanguly Berdymuhkamedov**

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**13 January 2012**

**\*Translated from the state language of Turkmenistan**