



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



Situation of human rights in Turkmenistan

Commission on Human Rights resolution 2003/11

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and the Universal Declaration of Human Rights and the duty to fulfil the obligations they have undertaken under the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that Turkmenistan is a party to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Reaffirming that no one shall be subjected to arbitrary arrest or detention and that everyone is entitled in full equality to a fair and public hearing, by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them,

Reaffirming also that everyone has the right to freedom of opinion and expression,

Reaffirming further that the fight against terrorism should be conducted in full respect of human rights and democratic principles,

Deeply concerned about the events of 25 November 2002 and the consequences thereof,

Taking note of the meeting on 22 January 2003 in Vienna between the Minister for Foreign Affairs of Turkmenistan and the permanent representatives of the group of 10 participating States of the Organization for Security and Cooperation in Europe that had invoked the Moscow mechanism of that organization,

1. *Expresses its appreciation* at the recent announcement by the Government of Turkmenistan that it will uphold the decision by the Turkmen Peoples' Council in December 1999 to abolish the death penalty;

2. *Expresses its concern* at the restrictions imposed on the realization of the right of everyone to education by the introduction of measures by the Government of Turkmenistan which have drastically reduced the number of years of compulsory education and the number of university places;

3. *Expresses its grave concern:*

(a) At the persistence of a governmental policy based on the repression of all political opposition activities and on the abuse of the legal system through arbitrary detention, imprisonment and surveillance of

persons who try to exercise their freedoms of thought, expression, assembly and association, and harassment of their families;

(b) At the suppression of independent media and freedom of expression, at attempts to restrict the access of the international media and at restrictions on the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of choice;

(c) At restrictions on the exercise of the freedom of thought, conscience and religion, despite guarantees contained in the Constitution of Turkmenistan and in the International Covenant on Civil and Political Rights, including by the harassment and persecution of members of independent faith groups and the discriminatory use of the registration procedures for such groups;

(d) At the heavy prison sentences given to objectors to compulsory military service on religious grounds, such as Jehovah's Witnesses, and the lack of alternative service compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature;

(e) At the discrimination by the Government of Turkmenistan against ethnic Russian, Uzbek and other minorities in the fields of education and employment, which is contrary to the Constitution of Turkmenistan and the International Covenant on Economic, Social and Cultural Rights;

(f) At the creation of almost insurmountable obstacles to marriages of Turkmen with foreigners, inter alia through the imposition of an obligation to pay a large sum of money before such marriages can take place;

(g) At the introduction of new exit visa requirements for Turkmen nationals and at the unreasonable registration regulations for foreign nationals introduced on 1 March 2003, which curtail enjoyment of the right to liberty of movement and freedom to leave the country;

(h) At the manner in which the elections of 6 April 2003 were organized and conducted, which did not represent a free and fair process;

4. *Deplores:*

(a) The treatment of accused individuals in violation of the International Covenant on Civil and Political Rights following the events of 25 November 2002, including arbitrary detentions, arbitrary arrests, convictions in the absence of the observation of minimum rules of due process, including the ability to prepare and execute one's defence with counsel of one's own choosing, imposition of sentences in violation of the principle *nulla poena sine lege*, the harassment of family members of the accused and the arbitrary confiscation of their homes and property and, especially, their announced eviction and reports of forced displacement to remote areas of the country;

(b) The conduct of the Turkmen authorities with regard to the lack of fair trials of the accused, the reliance on confessional evidence which may have been extracted by torture or the threat of torture, the closed

court proceedings, contrary to article 105 of the Constitution of Turkmenistan, which provides that trials should be open, except in a narrowly defined set of circumstances, and the refusal to allow diplomatic missions or international observers in Ashgabat access to the trials as observers;

(c) The reluctance of the Government of Turkmenistan to cooperate with the Moscow mechanism of the Organization for Security and Cooperation in Europe and to allow the Rapporteur of that organization to examine concerns arising from the events of 25 November 2002, as well as to respect its human rights commitments as a participant State of the Organization for Security and Cooperation in Europe and a member of the United Nations;

5. *Calls upon* the Government of Turkmenistan:

(a) To ensure full respect for all human rights and fundamental freedoms, in particular the freedoms of expression, religion, association and assembly, the right to a fair trial by an independent and impartial tribunal established by law and the protection of the rights of persons belonging to ethnic and religious minorities, and to take the necessary measures to refrain from subjecting conscientious objectors to imprisonment;

(b) To grant urgently access by independent bodies, including the International Committee of the Red Cross, to the persons detained following the events of 25 November 2002;

(c) To put an end to forced displacement and guarantee freedom of movement inside the country;

(d) To fulfil its responsibility to ensure that those responsible for human rights violations are brought to justice;

(e) To remove restrictions on the activities of non-governmental organizations, particularly human rights non-governmental organizations, and other civil society actors;

(f) To implement the recommendations outlined in the report of the Rapporteur of the Organization for Security and Cooperation in Europe;

(g) To develop a constructive dialogue with the United Nations High Commissioner for Human Rights and his Office;

(h) To cooperate fully with all the mechanisms of the Commission on Human Rights, including the Special Rapporteurs on the independence of judges and lawyers, on the question of torture, on extrajudicial, summary and arbitrary executions, on the promotion and protection of the right to freedom of opinion and expression, and on freedom of religion or belief, as well as the Working Group on Arbitrary Detention and the Special Representatives of the Secretary-General on internally displaced persons and on the situation of human rights defenders, including by issuing invitations to visit the country;

(i) To submit reports to all relevant United Nations treaty bodies and to ensure full implementation of their recommendations;

6. *Urges* the Government of Turkmenistan immediately and unconditionally to release all prisoners of conscience;

7. *Calls upon* the Special Rapporteurs on the independence of judges and lawyers, on the question of torture, on extrajudicial, summary and arbitrary executions, on freedom of opinion and expression, and on freedom of religion or belief as well as the Working Group on Arbitrary Detention and the Special Representatives of the Secretary-General on internally displaced persons, and on the situation of human rights defenders to seek invitations from the Government of Turkmenistan to visit the country;

8. *Requests* the Secretary-General to bring the present resolution to the attention of all relevant parts of the United Nations system;

9. *Decides* to continue its consideration of this question at its sixtieth session.

51st meeting

16 April 2003

[Adopted by a recorded vote of 23 votes to 16,
with 14 abstentions. See chap. IX.]