

CEE Bankwatch comments on the EBRD draft Country Strategy for Turkmenistan

For more information

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CEE Bankwatch Network welcomes the opportunity to comment on the draft of the new country strategy for Turkmenistan (TCS). Our comments are mainly based on discussions with Turkmen activists, and an analysis of the Turkmen constitution and legislation relevant to human rights.

The previous TCS approved in 2006 negatively assessed Turkmenistan's record in transition to multi-party democracy, pluralism and market economics. Due to this the EBRD's activities in Turkmenistan were in the baseline scenario restricted to supporting Small and Medium Enterprises. All investments in the public sector, as well as those in the private sector directly benefiting state funds or governmental officials were excluded.

The new draft TCS sees progress in the political and economic spheres since the beginning of President Berdymukhamedov's rule. Turkmenistan is now considered to be in compliance with Article 1. Hence, the Bank is planning to give up the principle of not financing projects with the involvement of the state or benefiting the state.

Compliance with Article 1 of the Agreement Establishing the Bank means that Turkmenistan is "*committed to and applying the principles of multiparty democracy, pluralism and market economics.*" We would like to concentrate our comments on this assumption.

The 2006 TCS gave clear benchmarks to be met by Turkmenistan before the Bank could progress towards deeper engagement with the government. These were:

- Multi-party democracy
- Free elections
- Separation of powers
- Freedom of the media
- Protection of human rights (TCS, 2006, p. 22).

Despite the fact that the draft TCS of 2010 describes changes made in the spheres of the Constitution, educational reform, improved Internet access and the release of one political prisoner as indications that the situation inside the country has dramatically improved since President Berdymukhamedov took office, information we have received from activists inside the country presents a very different picture. **According to our analysis the benchmarks for progress in the field of political and civil freedoms defined in the 2006 TCS have not been met.**

CEE Bankwatch Network's mission is to prevent environmentally and socially harmful impacts of international development finance, and to promote alternative solutions and public participation.

Political and civic freedoms in the constitution and their implementation

In 2007 under the new president Gurbanguly Berdymukhamedov the Constitution of Turkmenistan was revised. This is often presented as a significant step towards a more democratic system. This picture is not fully true, because in some spheres the new version of the constitution represents a departure from democratic principles, while other principal norms are still missing in the text.

In the new version of the constitution one person can be elected for an **unlimited number of presidential terms**. This is a significant departure from the previous version of the constitution, which had safeguards in place in this respect. In the conditions of Turkmenistan's one-party rule and lack of political pluralism this can easily lead to presidency-for-life. The importance of this issue is even more obvious in the regional context. The Presidents of Tajikistan and Kazakhstan have been in office almost 20 years each since the independence of their countries, while in the case of Azerbaijan and Turkmenistan the previous Presidents were in power for several consecutive terms until their deaths.

According to the new constitution, in cases when the President is not able to discharge his duties the question of succession will be dealt with by the **State Security Council**. This is a non-constitutional body. On top of that there is no law defining the scope and procedure of its activities. This constitutional arrangement opens an avenue for the usurpation of power without safeguarding citizens' rights to choose the highest representative of executive power.

Article 1 of the Agreement establishing the Bank explicitly states that Bank's activities are restricted to countries committed to and applying multi-party democracy and pluralism. While article 30 of the Constitution of Turkmenistan declares the right to form political parties **there is no separate law on political parties**. This means that even if a group of

citizens dared to challenge the current authorities by forming a political party, they are legally unable to do so. This gap is not the main reason keeping Turkmen citizens unable to exercise their rights to influence the government, but it shows the attitude of authorities in the country were **any political dissent is, practically speaking, forbidden**. There is only one political party in Turkmenistan, which is integrated with the ruling elite and reportedly financed from the state budget. No elections in independent Turkmenistan's history have featured any political competition.

Apart from political parties the same Article 30 of the constitution gives citizens the right to form "other associations". In practice a few years ago virtually all the **civil society organisations** independent from the government were dismantled. This process started in 2002 after an attempt on President's Niyazov life and was finalised in 2004 after the victory of Rose Revolution in Georgia – a process where civil society organisations played an important role. The late President Niyazov was afraid that his rule could be challenged in a similar way. Almost all the civil society organisations still existing in Turkmenistan are indirectly controlled by the government and do not dare to criticize its activities.

We are surprised about the information from the draft strategy that the EBRD consulted with local and international NGOs (draft TCS, 2010, p. 4). None of the independent Turkmen activists we are in contact with has been consulted.

Contrary to claims that under the new President the situation is improving, **during recent months we have observed further repression towards independently-minded individuals**. In autumn 2009 well known activist Mr Andrey Zatoka was arrested and sentenced to 5 years in prison for a crime he did not commit. His release was contingent upon renouncing Turkmen citizenship and leaving the country within 24 hours.¹ At the beginning of February during the

¹ Letters to the president of the EBRD and Executive Directors sent by Crude Accountability, CEE Bankwatch Network and Norwegian

visit of a U.S. State Department delegation, at least 4 activists were warned to not to leave their houses, in order to prevent them from meeting members of the delegation.

Currently no **international non-governmental organisations** are present in Turkmenistan. At the end of 2009 Medicins Sans Frontiers left the country. The same happened to the last representatives of WWF.

There is no clear reference to **freedom of mass media** in the Turkmen constitution. Article 28 contains a right to convictions and free expression. This right cannot be exercised by Turkmen citizens in the public sphere. All media outlets based in Turkmenistan are strictly censored and directly belong to the state. This refers even to printed newspapers, which have some freedom of expression in other countries of the former Soviet Union.

Although **internet access** has become easier in Turkmenistan during years it is still seriously restricted. The majority of websites criticizing the Turkmen government are blocked, along with popular portals such as YouTube. From the long list of blocked websites we would particularly mention those of groups protecting human rights: Human Rights Watch and Amnesty International (blocked recently) as well as a number of information portals presenting news from the region in Russian and English: www.iwpr.net, www.eurasianet.org, www.vremya.ru, www.ca-oasis.info, www.fergana.ru, www.chrono-tm.org. This shows that the right to access information declared in Article 28 of constitution is illusory.

Another law mentioned by the Turkmen constitution, but neither implemented by other laws nor present in the public life of the country is a right to **freedom of assembly, meetings and demonstrations** present in Article 29 of the constitution. No law on demonstrations exists in Turkmenistan. All mass

gatherings are inspired and organised by the authorities and strictly controlled by them.

In reality therefore, none of the five benchmarks mentioned above has been met and Turkmenistan cannot be considered to be committed to and applying the principles of multiparty democracy or pluralism. It is therefore unclear why the EBRD now considers that Turkmenistan now complies with Article 1.

Political and civic freedoms in the new draft EBRD Country Strategy for Turkmenistan

On p.4 of the draft strategy, new political benchmarks are laid out:

In the political sphere:

- *Progress toward genuine political pluralism and meaningful political accountability, including the strengthening of checks and balances in the political system, removal of impediments to registration and free functioning of NGOs and even-handed application of the rule of law.*
- *Substantial progress in increasing media freedom and freedom of expression.*
- *Further significant progress in improving the country's human rights record.*

However, these are much less detailed than the market economy-related benchmarks. Bankwatch believes that these should have at least equal importance and level of detail as market benchmarks. Without meeting these, and preferably more specific benchmarks, Turkmenistan will still not be in compliance with Article 1, and it needs to be made clear how often these will be assessed, and what will happen if these are or are not met.

Stabilisation Fund and Budget

The draft TCS 2010 mentions the new stabilisation fund as an important sign of progress made by the Turkmen authorities in the area of transparency in managing revenues from the hydrocarbon sector. It is believed that there is a large difference between the previous Foreign Exchange reserve fund (FERF) and newly announced Stabilisation Fund (SF). We would like to stress that the principles governing the SF have not been disclosed. There are no official laws, regulations or any other legal documents known to the public about the way the new fund will be managed. The disclosure of this information is a necessary precondition for progress supposedly made with the creation of the SF. Hence, we find unjustified the Bank's assumption that "*The creation of a stabilisation fund in October 2008 will lead to a more transparent utilisation of natural resource revenues and the allocation of proceeds for future generations, (...)*" (draft TCS 2010, p. 11).

In the same way as under President Niyazov, Turkmen society is deprived of influence on the economic and financial policies of the government. Only the expenditures part of the budget of the country is made public, while revenues, largely coming from the hydrocarbon sector, are kept secret.

Conclusions and recommendations

Bankwatch believes that any progress made in Turkmenistan's transition to multi-party democracy and pluralism under President Berdymukhamedov is far from sufficient to comply with Article 1 of the Agreement Establishing the Bank. The benchmarks for progress in the political sphere, correctly defined in the TCS from 2006 have not been met, hence the EBRD should uphold its approach from the previous TCS and restrict its lending to spheres not benefiting the state, e.g. small and medium enterprises.

The activity of the EBRD should concentrate on helping the country to implement the principles

stated in Article 1 of the Agreement Establishing the Bank through policy dialogue and cooperation with other donors and civil society.

We believe that the introduction of a calibrated approach basing the bank's engagement with Turkmenistan on the implementation of sector-specific reforms, should only be introduced after the country complies with Article 1 of the Agreement Establishing the Bank.

We urge the EBRD to revise the draft Country Strategy for Turkmenistan to demand stricter adherence to Article 1 measured against strong and clear political benchmarks as a condition for increased investment in the country.