

CRUDE ACCOUNTABILITY

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Board of Directors
European Bank for Reconstruction and Development
One Exchange Square
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Dear Members of the Board:

Thank you very much for the opportunity to comment on the draft country strategy for Turkmenistan. We appreciate the chance to provide our feedback to you, and trust that you will take into consideration the concerns of civil society as you make your decisions regarding the Bank's engagement with Turkmenistan.

We understand that the basis for the EBRD's investment in any country is grounded in that country's compliance with Article 1 of the Bank's founding documents. In 2006, when the previous country strategy was adopted, the Bank correctly stated that Turkmenistan failed to apply "the principles of multiparty democracy, pluralism and market economics," and therefore the EBRD did not provide significant financing to the country, specifically excluding government entities. This amounted, effectively, to non-financing of the hydrocarbon sector, among others.

Crude Accountability believes that the EBRD's 2006 strategy for Turkmenistan was correct, and it set an important benchmark for other international financial institutions by requiring a democratic and pluralistic approach to governance and a market driven approach to economics. We are concerned that the proposed changes in the new draft strategy will strengthen Turkmenistan's authoritarian government under Berdymukammedov, which has changed very little from the Niyazov regime that preceded it. Furthermore, we are concerned that a change in the EBRD's policy toward Turkmenistan will serve as a signal to other international financial institutions that the country has improved its standing with regard to multiparty democracy, pluralism and market economics, inviting them to also invest in this troubled regime.

The draft strategy refers to changes in the Constitution of Turkmenistan, improvements with regard to Internet access, educational reform, and the release of one political prisoner as indications that the situation inside the country has dramatically improved since President Berdymukammedov took office.

Unfortunately, the information we receive from colleagues inside the country points to a very different situation: one in which civil liberties are violated on a daily basis, in which access to information is controlled and limited by the government, in which citizens are denied access to education and freedom of movement, in which there is no independent media, and in which the government maintains strict control over the majority of economic activity.

Turkmenistan's Constitution

The changes to the Constitution, which came into effect in 2008, actually increase the authority of the executive branch, ensuring that the President has strict control over the government.

Local government representatives, including regional and local mayors, are hand-selected by the President. Citizens are, in this way, denied access to elected officials. In a country with the authoritarian traditions of Turkmenistan, this enables the President to maintain control even in rural municipalities.

This top-down approach, combined with the cult of personality that defines the Berdymukhammedov regime as it did the Niyazov regime, creates a dangerous and restrictive environment in which citizens are fearful of speaking out, making multiparty democracy and pluralism virtually impossible.

Educational Reform

While it is true that President Berdymukhammedov reinstated the mandatory tenth year of education for Turkmen children, the country suffers from a lack of text books, adequately trained teachers, and access to educational materials. In 2009, Turkmen students who were admitted to university in Kyrgyzstan were forbidden from leaving the country; their visas were denied and their passports taken from them by government officials. Some of them were put on black lists, meaning they have been unable to leave the country for any reason. For more information see: (<http://www.alertnet.org/db/blogs/3159/2009/08/11-072643-1.htm>).

Internet Access

Although the number of Internet cafes has increased since Berdymukhammedov became President, contacts inside the country report that the cost of using these services is prohibitive for most people. In addition, many sites are blocked, and Internet café users are required to register their passports and personal information with the café staff, violating their right to privacy.

Media and Public Access to Information

In a country that has no explicit right to independent media, access to information and news is critical to the population. Citizens still remain unable to subscribe to international print media and all media inside the country is strictly controlled by the government. This restriction, combined with the limitations on Internet access, means that many Turkmen citizens are unable to access the media or obtain information about what is happening in the world. This reality is hardly one of a democratic or pluralistic society.

Turkmenistan is in violation of the Aarhus Convention, which ensures the public's right to access to environmental information, participation in environmental decision-making and legal recourse when those rights are denied. Violations were brought before the Compliance Committee of the Aarhus Convention by a Moldovan NGO on behalf of Turkmen civil society as it would have been too dangerous for Turkmen citizens to publicly draw attention to their government's lack of observance with the convention. The Compliance Committee found Turkmenistan out of compliance with a number of points of the convention, and stated that Turkmenistan's NGO law must be revised in order to be brought in compliance. Although the Compliance Committee first found Turkmenistan out of compliance in 2005, as of this writing, the government of Turkmenistan has failed to take the necessary measures to implement the Compliance Committee's recommendations.

Restrictions on Civil Society

Civil society organizations in Turkmenistan have been unable to register since the 2003 NGO law was instituted. The situation has not improved since Berdymukhammedov became President, meaning that ordinary citizens risk civil prosecution if they assemble without the proper NGO documentation as it is illegal to work as an unregistered organization.

Crude Accountability joins the EBRD in celebrating the release of Mr. Aymuradov as a political prisoner in 2009. However, serious violations of the legal and criminal justice systems continue, as the recent case of Mr. Andrey Zatoka demonstrates. Crude Accountability wrote to the EBRD regarding Mr. Zatoka's case in the fall of 2009¹, so we will not describe it again in detail here, but following his politically motivated arrest and sentencing to five years in prison for a crime he did not commit, Mr. Zatoka's release was contingent upon renouncing his Turkmen citizenship, a step he took only when it became clear he would otherwise be imprisoned.

We have received reports from colleagues inside the country that when foreign delegations come to Turkmenistan representatives of civil society are informed that they must not leave their homes until the delegations have departed. Individuals report that they receive numerous phone calls from the security police and that security police cars are parked outside their homes to ensure they do not leave to meet with the delegations. This occurred most recently in February 2010 when a US State Department delegation traveled to Ashgabat.

Readiness to Cooperate

Recent events in Turkmenistan also raise questions about the country's commitment to international cooperation. Medecins Sans Frontieres was forced to leave Turkmenistan in 2009 because it was unable to fulfill its mission due to lack of government cooperation. The Turkmen government's treatment of the above-mentioned students of universities in Kyrgyzstan also raises questions about the sincerity of the government's desire to cooperate on the international level.

Lack of Financial Accountability

With regard to financial accountability, the government of Turkmenistan has a long and infamous history of corruption and graft. Global Witness's report, "It's a Gas," documents former President Niyazov's dealings with the Deutsche Bank, into which he placed millions of dollars in revenue, which should have gone into government coffers. We do not see evidence of the type of significant economic and financial reform in the Turkmen government that would warrant risking the investment of public financing into such a corrupt regime.

Crude Accountability is concerned that EBRD financing of infrastructure inside Turkmenistan will, de facto, be support for the hydrocarbon sector, benefiting the Turkmen national oil and gas companies and international oil corporations. If the EBRD provides financing to the development of the Turkmenbashi port, as it has done at ports in Baku and Aktau (the "commercially governed peers" to which you refer on page 12 of the draft strategy), this will amount to support for transportation of hydrocarbons from Turkmenistan to points west. Guaranteeing the safe passage of hydrocarbons across the Caspian Sea is extremely difficult at

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<http://www.crudeaccountability.org/en/uploads/File/turkmenistan/Letter%20to%20Directors%20of%20the%20EBRD.pdf>

present, particularly because of the absence of clear maritime law governing transportation requirements (the legal status of the Caspian Sea remains undetermined), and because no uniform oil spill mitigation plan exists for the Caspian Sea. We are concerned that EBRD involvement in oil and gas related projects, including transportation, may exacerbate existing geopolitical tensions among the countries of the Caspian region. The further militarization of the Caspian Sea could lead to greater destabilization of the region as a whole, rather than fostering the development of market economies and pluralism.

Furthermore, according to the Failed State Index of 2009, which is estimated for 177 countries, the situation in Turkmenistan (59th place) is ranked as dangerous. Similarly, the 2010 Index of Economic Freedom by the Heritage Foundation and The Wall Street Journal ranked Turkmenistan 171 of 179 countries. According to the index, Turkmenistan's "score is 1.7 points lower than last year, reflecting reduced scores particularly in investment freedom and monetary freedom." <http://www.heritage.org/index/ranking.aspx>

Because of Turkmenistan's failure to demonstrate significant improvement with relation to Article 1 of the EBRD's founding documents, we believe it is premature to significantly broaden the Bank's lending policy toward Turkmenistan. Continued support for small and medium sized business, along with support for reform in the banking system, will provide Turkmenistan with the tools it needs to demonstrate its commitment to a market economy. This will also give the signal to the repressive government of Turkmenistan that the EBRD is committed to Article 1, and in particular, to multi-party democracy and pluralism. A significant and meaningful demonstration of its own commitment to these fundamental principles should be a precursor to increased support from the EBRD.

Finally, although Article 1 does not speak specifically to this issue, respect for human rights is the foundation of a multiparty democracy and of pluralism. Turkmenistan remains on par with Burma, North Korea and Sudan on Freedom House's list of the world's worst human rights offenders. By continuing to refrain from financing projects involving the government of Turkmenistan, the EBRD has an opportunity to demonstrate to the world that it places respect for human rights above a risky economic endeavor. We enclose as an attachment the "Common Vision," a document prepared by Turkmen civil society representatives describing the current situation in Turkmenistan and providing recommendations to western organizations. This document is supported by western NGOs, including Crude Accountability.

We urge the EBRD to revise the draft strategy for Turkmenistan to demand stricter adherence to Article 1 as a condition for increased investment in the country.

Sincerely,



Kate Watters
Executive Director

Attachment 1

A Common Vision for the Advancement of Human Rights in Turkmenistan

This Common Vision is the unique product of the thorough work of 24 Turkmen citizens supported by several international NGOs. We, citizens of Turkmenistan, wish to present the most appalling human rights violations in Turkmenistan under Berdymuhamedov today and introduce concrete recommendations for the international community, which is now actively involved in this formerly closed country.

We are pleased to see the start of intensive contact between the countries of the West and the government of Turkmenistan. We believe that new possibilities are being presented at this time; possibilities that can, on the one hand, lead to the economic and political inclusion of Turkmenistan in global processes, and on the other hand, begin to correct the monstrous legacy of the previous totalitarian regime.

We believe that contact between western governments and the leadership of Turkmenistan can and must play a role in both processes. At the same time, however, we ask you to remember the connections between the cost of economic contacts with Turkmenistan and the value of human rights, human life and the dignity of Turkmenistan's citizens.

We draw to your attention the fact that human rights violations are numerous and widespread, systemic in character, and **purposefully supported by the authorities in Turkmenistan.**

- There is **no pluralism** in the country. There are no political parties. All political and social activity is strictly controlled by the authorities. It is impossible for NGOs to work legally. All civic activists are under constant control of the secret police, undergo psychological pressure, and are subject to physical threats made against them and their relatives.
- There is absolutely **no freedom of speech** in the country. All news media is affiliated with and strictly controlled by the government. Any public expression of differing opinions is impossible. Repression includes interviews and publication in foreign mass media. Access to the Internet continues to be censored.
- The practice of **collective punishment** (as it is called) is widespread. This is when the arrest and conviction of a person leads to the arrest

(or other repression or disenfranchisement of the rights) of his/her closest relatives. This form of punishment was used widely during the Niyazov regime, and continues today. It serves to more fully aggravate the official punishment and causes even crueler psychological suffering. This practice has no justification and deserves unequivocal condemnation.

- Information received from the prisons in Turkmenistan indicates that its **penal system** is among the worst in the world. Especially troubling are the unhealthy conditions in which women prisoners are forced to work.
- The rights of **national minorities** continue to be violated in many ways. Although national minorities comprise over twenty percent of the population, not one minority has the all inclusive conditions it deserves in which to preserve its cultural norms and identity, including the opportunity to study its own language and customs. This is particularly true for young people, who do not have access to cultural centers, museums and press in their national languages. Over thirty thousand Beludzhi have been forced to assimilate because of these conditions.
- **Religious activity** remains under tight government control. Religious communities that are allowed to gain state registration have to report regularly to the government, cannot freely build or open places of worship, and cannot freely publish or import religious literature. Islam remains under tight state control: the state authorities name all imams, control the only officially-approved education for imams and decide when and where new mosques will be built. Many religious minority communities have been denied legal status and the possibility to function openly. Police intermittently harass religious communities. Some active religious believers are on the exit blacklist and cannot leave the country. Five Jehovah's Witnesses are serving sentences for refusing compulsory military service.
- The Constitution of Turkmenistan does not include **the right to freely leave the country**. As a result, citizens are frequently denied the freedom to leave the country or are pressured and manipulated when applying for the right to leave Turkmenistan. Journalists, civil society activists, and the relatives of those in prison are forbidden from leaving the country.

- **The economic system** of Turkmenistan remains paternalistic, lacking in transparency, corrupt and in many ways archaic; it lacks the most basic market mechanisms. The social fabric of the country is also totally corrupted. The Turkmen public is completely isolated from any information about the colossal resources from the sale of gas and from any possibility to influence the financial politics of the authorities.

The human rights concerns listed above illustrate well the systemic character of the human rights violations in Turkmenistan, and create a sufficient basis for the start of an objective conversation with the Turkmen authorities about the absolute need to surmount these violations and the **essential conditions** for the development of long-term political and economic relationships.

We understand the concerns of western countries regarding energy security for Europe, concerns that have led to such intense interest in Turkmenistan's energy potential. However, **we do not understand** why the standards for evaluating human rights conditions in the country have been severely diluted, and the unwillingness of the international community to condemn fundamental human rights abuses publicly when they arise.

We appeal to all interested parties—the European Parliament, the United States Congress and Senate, national European parliaments, and governments and governmental bodies—to acknowledge the existing human rights problems in Turkmenistan.

We appeal to you to give the highest priority to motivating the government of Turkmenistan to rapidly dismantle the existing **systematic** repressive system.

We appeal to all western financial institutions, including the World Bank, International Finance Corporation, European Bank for Reconstruction and Development, and European Investment Bank, to make planning and realization of their programs in Turkmenistan and connected to Turkmenistan (for example, the Nabucco pipeline, Southern Energy Corridor and others), dependent on the readiness of the Turkmen authorities, not only to discuss human rights issues, but also to take concrete steps toward concrete results.

We make the following initial recommendations to the government of Turkmenistan as necessary conditions for the development of political and economic relationships:

- Stop the practice of collective punishment, and unconditionally release the family members of imprisoned individuals.
- Stop the practice of recruiting prisoners to coercive labor that is dangerous to their health, and provide medical assistance to those who are already suffering.
- Create all the conditions for the harmonious development of the culture and tradition of all national minorities, with no exceptions.
- Create all the conditions for the formation and development of independent mass media and outlaw state censorship.
- Guarantee the possibility for the creation and independent operation of public organizations, including the transformation of the existing NGO law.
- Reject the practice of suppressing dissent, and stop the persecution of dissidents and civic activists.
- Completely ban the practice of forbidding free entrance into and exit from the country.
- Create standards to guarantee economic transparency, in particular ensuring public access to information on the return of finances from the sale of energy resources and the creation of mechanisms through which to influence the use of this revenue.

As a gesture of good will and as a first step toward the resolution of these problems, we appeal to the government of Turkmenistan to provide independent, international observers with **ongoing** access to the country--first and foremost to its prisons.

In total, twenty-four citizens of Turkmenistan, permanently living in the country, have signed this document.*

We, representatives of international civil society organizations, have read this letter and support its contents fully.

On 10 November 2009 signed by:

Said Yakhyoev, **Bank Information Center**, USA

Huub Scheele, **BothENDS**, Netherlands

Mark Fyodor, **CEE Bankwatch Network**, Czech Republic

Sonia Zilberman, **CIVICUS: World Alliance for Citizen Participation**, South Africa
Robert Hårdh, **Civil Rights Defenders**, Sweden
Nicholas Hildyard, **the Cornerhouse**, United Kingdom
Antonio Tricarico, **CRBM (Campagna per la riforma della Banca mondiale)**, Italy
Kate Watters, **Crude Accountability**, USA
Jonas Christoffersen, **the Danish Institute for Human Rights**, Denmark
Sebastien Godinot, **Friends of the Earth**, France
Gavin Hayman, **Global Witness**, United Kingdom
Manana Kochladze, **Green Alternative**, Georgia
Martin Kryl, **Hnuti DUHA (Friends of the Earth)**, Czech Republic
Holly Cartner, **Human Rights Watch**, USA
Vitalyy Ponomarev, **Memorial Human Rights Centre**, Russian Federation
Ludmilla Alexeeva, **Moscow Helsinki Group**, Russian Federation
Bjorn Engesland, **Norwegian Helsinki Committee**, Norway
Masha S. Feiguinova, **Turkmenistan Project, Open Society Institute**, USA
Farid Tukhbatullin, **Turkmen Initiative for Human Rights**, Austria

We ask that any comments or view points to the common vision are addressed to: Advisor Ivar Dale, Norwegian Helsinki Committee, Kirkegata 5, 0153 Oslo, Norway E-mail: dale@nhc.no

*These individuals cannot sign this letter in fear of their own safety and that of their families.