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March 1, 2010

Board of Directors
European Bank for Reconstruction and Development (EBRD)
One Exchange Square
London EC2A 2JN
United Kingdom

Re: EBRD Country Strategy Review for Turkmenistan

Dear Directors,

We are grateful for the opportunity to comment on the Bank's draft strategy on Turkmenistan and appreciate its effort to solicit and consider comments by nongovernmental organizations.

In this letter we ask the Bank to stay true to its Article 1 mandate and to continue its suspension of public sector investment in Turkmenistan until such time as the Turkmen government makes credible progress toward meeting benchmarks the Bank has set for it.

In the three years since the death of "president-for-life" Saparmurat Niazov, Turkmenistan's government has taken some steps forward to alleviate the tyranny with which Niazov had ruled. It released some political prisoners, allowed a handful of people previously banned from leaving the country to travel abroad, and reinstated pensions and the ninth year of compulsory education. These are all welcome steps. But to date there is no evidence to indicate a commitment on the part of the government to the kinds of reforms that would eventually bring it into compliance with the political aspects of Article 1. Moreover, the government has followed each of these small steps forward with several steps backward, showing utter disregard for its human rights obligations and demonstrating a lack of commitment to reform. Such steps backward include the arrest and subsequent banning from the country of civil society activist Andrei Zatoka in fall 2009, and new, arbitrary restrictions on travel imposed in summer 2009, preventing students enrolled in private universities abroad to leave Turkmenistan. As will become clear from the below overview of human rights concerns, the government resists genuine human rights reform and remains one of the most repressive in the world.

We are therefore alarmed by the significant shift being proposed to the Bank's approach to Turkmenistan, which would lift the Bank's

longstanding suspension of public sector lending in recognition of what the draft strategy describes as “recent progress in the political and economic spheres.” In light of the Turkmen government’s continually appalling human rights record, we do not consider such a shift to be justified, or consistent with the Bank’s Article 1 mandate. We are concerned that by effectively abandoning its principled stance the Bank is undermining the cause of human rights in Turkmenistan and jeopardizing its integrity as an institution genuinely committed to the values embedded in Article 1. The Turkmen government cannot but interpret this shift as the Bank backtracking on its reform demands laid out in previous Bank strategies, and could possibly even see it as an endorsement of its repressive policies.

Comments on the Bank’s political assessment

The draft strategy rightly recognizes that “much remains to be done in the area of democratic competition and accountability, strengthening the rule of law and guaranteeing protection of human rights and media freedom.” But its description of a number of key human rights developments is incomplete in ways that leave room for regrettable misperceptions that we believe need to be remedied in order to ensure an objective and accurate assessment. For example:

- The draft strategy hails the release of Turkmenistan’s longest-serving known political prisoner, Mukhametkuli Aymuradov, in May 2009, after 14 years in prison, but omits mentioning that he had served his sentence, and that unknown numbers of others are similarly imprisoned on politically motivated grounds.
- The draft strategy also refers to the European Parliament as having approved an Interim Trade Agreement with Turkmenistan after many years of delay due to human rights concerns, but does not explain that the move was not to be interpreted as implying that the Parliament felt satisfied with the state of human rights in the country. Yet this was a key consideration for the European Parliament. In fact, the resolution approving the agreement made clear that the Parliament remained deeply concerned about the state of human rights in Turkmenistan and urged a number of specific human rights reforms. It was to respond to these serious concerns and to win over the parliament’s support for the agreement that the European Commission and Council pledged to work actively to advance human rights reforms in Turkmenistan.
- The draft strategy also invokes the EU’s “constructive dialogue” with Turkmenistan on human rights. As most observers would agree, this process unfortunately has thus far not proven an effective mechanism for the advancement of human rights in Turkmenistan. It consists of isolated, once-yearly talks whose content and outcome remain opaque.
- The draft strategy further refers to the September 2008 visit to Turkmenistan by the UN Special Rapporteur on freedom of religion, but omits noting that no fewer than nine other UN monitors remain unable to visit due to the government’s failure to grant invitations despite their longstanding requests for access.

- More generally, the draft strategy states that the Turkmen government has “visibly increased international cooperation with relevant multilateral bodies” and notes what it terms “an improvement...in the Government’s readiness to engage with specialised international organisations, such as the UN and the OSCE...including in the area of monitoring.” Given the Turkmen government’s persistent denial of access to the country for independent human rights monitors and refusal to implement the numerous recommendations formulated by international monitoring bodies, this positive assessment would hardly seem justified. A telling example is the Universal Periodic Review process at the UN Human Rights Council, which Turkmenistan underwent last year. The government outright rejected a number of key recommendations made during the review, including steps that would require nothing but political will to carry out, such as freeing political prisoners and lifting arbitrary travel bans on activists and relatives of opposition members.
- In its discussion of the December 2008 parliamentary elections, the draft strategy mentions the deployment of election experts by the Organization for Security and Co-operation in Europe (OSCE), but without specifying that the organization decided not to send a full election observation mission after concluding that “the current political context does not allow for a meaningful competition.”
- Finally, the draft strategy accurately notes that “there are no international human rights NGOs with a continued permanent presence in the country,” but does not specify that such NGOs are not even allowed in to visit the country for the purposes of human rights research. Human Rights Watch has been unable to visit for more than ten years and other groups such as Amnesty International and the International Federation for Human Rights likewise remain without access.

Overview of human rights concerns

Human Rights Watch has in numerous fora acknowledged the small positive steps taken by the Turkmen government that are outlined in the Bank’s strategy. Below we provide an overview of some of Turkmenistan’s most pressing human rights problems that we hope the Bank will reflect in its strategy.

The rights to freedom of expression, association, assembly, movement, and religion are subject to draconian restrictions in Turkmenistan. Independent civil society activists and journalists cannot work freely in the country. The government threatens, harasses, and arrests those who question its policies, however modestly. The country remains closed to independent human rights monitors, including Human Rights Watch, which as we noted above has been unable to access the country for more than ten years. In mid-December 2009, Medecins Sans Frontieres (MSF) announced that following repeated rejections on the part of Turkmen authorities of their project proposals, they were forced to close. MSF was the last remaining INGO in Turkmenistan, where it had been since 1999. Also, as discussed above, in September 2008, the UN special rapporteur on

freedom of religion became the first UN special rapporteur to visit the country, but the government has refused to grant invitations to nine other UN monitors despite their longstanding requests for access.

There is a complete void in media freedoms in Turkmenistan. All print and electronic media are controlled by the state. It is very difficult for foreign media outlets to cover Turkmenistan because they often cannot access the country and because in recent years local stringers for foreign outlets have been beaten, harassed, or otherwise intimidated. Many websites are blocked in Turkmenistan, internet cafes require visitors to present their passports, and the government monitors electronic communications. It is extremely difficult to obtain foreign newspapers and magazines. Border guards are known to confiscate foreign printed materials. Merchants can sell only media published in Turkmenistan.

Unknown numbers of individuals continue to languish in Turkmen prisons on what appear to be politically motivated charges. The lack of transparency in the justice system, including closed trials and the absence of independent human rights monitoring, make it impossible to arrive at a reliable number of political prisoners or evaluate the legitimacy of the charges laid against them. Well-known political prisoners include Annakurban Amanklychev and Sapardurdy Khajiev, who worked with human rights organizations, and political dissident Gulgeldy Annaniyazov. Torture and ill-treatment remain major concerns, compounded by the complete lack of access to detention facilities by independent monitors, and the overall vacuum of human rights monitoring in the country.

Turkmen authorities continue to arbitrarily interfere with residents' right to leave and return to Turkmenistan through an informal system of travel bans, commonly imposed on activists and relatives of exiled dissidents. In summer 2009, authorities intensified restrictions on foreign travel by imposing a new travel ban targeting students bound for foreign private universities, and introduced new, burdensome requirements for studying abroad that prevent people in Turkmenistan from exercising their rights to freedom of movement and to education. While in early February students with the TASP program (funded by the US Department of State) were able to travel to the American University in Bulgaria, many other students funded by other scholarships and institutions still have not been able to leave Turkmenistan and are arbitrarily deprived of education of their choice.

Political parties and candidates who project alternative views to government policies are not tolerated. Turkmenistan has not held a single election since independence that the OSCE would have considered free and fair. As noted above, during the parliamentary elections in December 2008 the OSCE did not even send a full election observation mission, stating that "the current political context does not allow for a meaningful competition."

Recommendations

We recognize that Turkmenistan's energy wealth and strategic importance for many governments in Europe and beyond make it an attractive partner. But pursuing that partnership need not, and should not mean downplaying Turkmenistan's abhorrent human rights record. Pursuing energy and business interests and promoting human rights are not mutually exclusive goals. We encourage the Bank to recognize this in the new strategy, and earnestly use the prospect of enhanced relations with Turkmenistan as a lever for positive change. Using the strategy review to reaffirm that human rights and democracy are core values underpinning all aspects of the Bank's policy toward Turkmenistan would give real meaning to the Bank's Article 1 mandate and make a crucial contribution toward efforts to render Turkmenistan a more suitable partner for enhanced relations.

Human Rights Watch firmly believes that until meaningful reforms are forthcoming, the Bank should continue to hold off on any investment that benefits the Turkmen government. It should use the strategy review as an opportunity to reaffirm its reform demands and proactively engage with the Turkmen government and other international actors to achieve their fulfillment.

In this regard, we welcome the draft strategy's affirmation that the Bank's approach to Turkmenistan "will continue to be guided by its mandate and its adherence to the principles of Article 1," and its assertion that an "important dimension of the Bank's activities in the current Strategy period will be proactive policy dialogue with the authorities, donors and NGOs on the need for acceleration of reforms and importance of enhanced political and economic openness."

We also note the "reform benchmarks" the draft strategy outlines both in the political and economic spheres against which the Bank will "closely monitor progress in these domains." The draft strategy, however, stops short of providing any specifics on how it intends to pursue the dialogue or monitor the benchmarks, and does not indicate what policy consequences would ensue in the event that the benchmarks are not met. We encourage the Bank to elaborate on these crucial aspects of its approach.

To sum up, we recommend that the Bank:

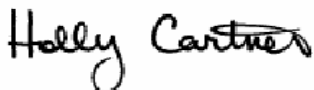
- Stay firm on its reform demands, and continue its suspension of public sector investment until such time as the Turkmen government makes credible progress toward meeting the benchmarks. While exceptions could be made for projects that directly affect the health, education, and well-being of the general population, projects falling into these categories should be closely monitored to ensure that they serve their intended purpose.
- Use the opportunity of its upcoming assessment of Turkmenistan to call on the Turkmen government to undertake concrete and measurable reform steps, making clear that their fulfillment will determine the Bank's level of engagement in the country. Such reform steps include the following:

- Allow activists, civic groups and journalists to operate freely and without fear of persecution;
- Release all political prisoners, including human rights activists Annakurban Amanklychev and Sapardurdy Khajiev and the dissident Gulgeldy Annaniazov;
- Undertake a nationwide, transparent review of all cases of political imprisonment of the past years in order to establish the real number of political prisoners and ensure that victims of abuse are provided with justice;
- Ensure unfettered access to the country, including to places of detention, for independent human rights monitors (including NGOs and UN special rapporteurs and other independent experts who have requested access);
- Lift travel bans imposed on students, activists and relatives of opposition members, and dismantle the system that allows for government interference with residents' ability to leave and return to Turkmenistan.

In conclusion, we would like to stress that the above approach should not be interpreted as one of isolation or disengagement, but rather as a means to ensure that the Bank's engagement serves to promote the reforms the Bank itself has identified as necessary. We firmly believe that a strategy guided by a principled approach to human rights and democracy, which recognizes the interconnectedness of political and economic reforms, and uses conditionality effectively to achieve these goals, stands the best chance of achieving its intended results.

Thank you for your attention to our concerns. We would welcome an opportunity to answer any questions you may have, and wish you a productive discussion.

Sincerely,



Holly Cartner
Director
Europe and Central Asia Division

Cc: Thomas Mirow, President of the European Bank for Reconstruction and Development