

# Khadzhiyev and Muradova v. Turkmenistan

*Communication to the  
United Nations Human Rights Committee*

**April 2013**



**OPEN SOCIETY**  
JUSTICE INITIATIVE



**Communication to the United Nations Human Rights Committee**

**In the case of**

**Annadurdy KHADZHIYEV and Ogulsapar MURADOVA**

**against**

**Turkmenistan**

*submitted for consideration under the Optional Protocol to the  
International Covenant on Civil and Political Rights*

to

The United Nations Human Rights Committee  
c/o Petitions Team  
Office of the High Commissioner for Human Rights  
United Nations Office at Geneva  
1211 Geneva 10  
Switzerland



## TABLE OF CONTENTS

<b>I. THE AUTHOR.....</b>	<b>7</b>
<b>II. THE VICTIM (DECEASED) .....</b>	<b>7</b>
<b>III. LEGAL REPRESENTATIVES OF THE AUTHOR.....</b>	<b>7</b>
<b>IV. STATE PARTY .....</b>	<b>7</b>
<b>V. SUMMARY OF THE CLAIM .....</b>	<b>7</b>
SUMMARY OF THE FACTS .....	7
SUMMARY OF DOMESTIC REMEDIES EXHAUSTED .....	9
VIOLATIONS OF THE ICCPR .....	9
<b>VI. FACTS OF THE CLAIM .....</b>	<b>10</b>
BACKGROUND: OGULSAPAR MURADOVA.....	10
<i>The Author</i> .....	10
<i>Co-Founding the Turkmenistan Helsinki Foundation for Human Rights (2003)</i> .....	11
<i>Ms. Muradova’s Work as a Journalist</i> .....	12
DETENTION AND TRIAL OF MS. MURADOVA .....	13
<i>Pre-Detention Persecution of Ms. Muradova</i> .....	13
<i>Ms. Muradova’s Arrest</i> .....	13
<i>Detention of Ms. Muradova’s Children</i> .....	14
<i>Televised Meeting of Senior Turkmen Authorities on Ms. Muradova’s “Crimes”</i> .....	14
<i>Conditions of Ms. Muradova’s Detention</i> .....	15
<i>Ms. Muradova’s Indictment and Trial</i> .....	17
MS. MURADOVA’S DEATH IN CUSTODY .....	18
<i>The Family Learns of Ms. Muradova’s Death</i> .....	18
<i>Handover of Ms. Muradova’s Body to the Family</i> .....	19
<i>Injuries on Ms. Muradova’s Body</i> .....	19
<i>Results of Apparent Autopsy Never Disclosed</i> .....	20
CONTINUED HARASSMENT OF MS. MURADOVA’S FAMILY.....	20
TURKMEN AUTHORITIES FAIL TO INVESTIGATE MS. MURADOVA’S DEATH.....	21
<i>Attempts by the Author and His Wife to Obtain Redress</i> .....	21
<i>International Outcry</i> .....	22
DETENTION AND RELEASE OF ANNAKURBAN AMANKLYCHEV AND SAPARDURDY KHADZHIEV .....	25
CONTEXT: SYSTEMATIC HUMAN RIGHTS ABUSES IN TURKMENISTAN .....	26
<i>Government Repression of Political Dissent</i> .....	26
<i>Government Control of Media</i> .....	28
<i>Torture by the Turkmen Authorities and Deaths in Custody</i> .....	30
<i>Failure to Investigate Government Abuses</i> .....	31
<i>Lack of Fair Trial Rights</i> .....	32
<b>VII. ADMISSIBILITY .....</b>	<b>33</b>
A. JURISDICTION .....	34
B. VICTIM STATUS.....	34
C. NO OTHER INTERNATIONAL COMPLAINT .....	34
D. EXHAUSTION OF DOMESTIC REMEDIES .....	34
<i>The Turkmen Authorities Rendered Remedies Unavailable</i> .....	34
<i>Further Remedies for Ms. Muradova’s Mistreatment and Death Are Ineffective</i> .....	36
E. TIMING OF COMMUNICATION .....	38
<i>Legal Standards: Timing of a Communication</i> .....	38
<i>No Abuse of the Right of Submission</i> .....	39
<i>Continuing Violations</i> .....	39

<b>VIII. VIOLATIONS OF THE ICCPR</b> .....	<b>40</b>
A. ARBITRARY KILLING: ARTICLE 6(1) .....	41
<i>Legal Standards: the Right to Life</i> .....	41
<i>Violation of the Right to Life</i> .....	41
B. TORTURE OF MS. MURADOVA: ARTICLE 7 .....	42
<i>Legal Standards: Prohibition of Torture</i> .....	42
<i>No Plausible Explanation Provided for Signs of Torture</i> .....	43
C. FAILURE TO SAFEGUARD AGAINST TORTURE AND DEATH: ARTICLES 6(1) AND 7 WITH ARTICLE 2(2).....	44
<i>Legal Standards: Safeguards</i> .....	44
<i>Failure to Provide Safeguards to Prevent Torture and Homicide</i> .....	45
D. FAILURE TO CONDUCT AN EFFECTIVE INVESTIGATION: ARTICLES 6(1) AND 7 WITH ARTICLE 2(3) .....	47
<i>Legal Standards: Effective Investigations</i> .....	47
<i>Failure to Conduct an Effective and Impartial Investigation</i> .....	49
E. FAILURE TO PROVIDE REDRESS: ARTICLES 6(1) AND 7 WITH ARTICLE 2(3) .....	49
F. NO JUDICIAL AUTHORIZATION OF PRE-TRIAL DETENTION: ARTICLE 9(3) .....	50
G. VIOLATION OF THE RIGHT TO A FAIR TRIAL: ARTICLE 14.....	51
1. <i>Violation of the Presumption of Innocence</i> .....	51
2. <i>Violations of the Right to Counsel</i> .....	52
3. <i>Violation of the Right to a Public Trial</i> .....	54
4. <i>Violation of the Right to Review of Her Conviction and Sentence</i> .....	55
H. VIOLATION OF RIGHTS AS A JOURNALIST AND HUMAN RIGHTS DEFENDER: ARTICLES 9 AND 19 .....	56
<i>The Duty to Protect Human Rights Defenders</i> .....	56
<i>Arbitrary Detention of Journalists and Human Rights Defenders: Article 9</i> .....	57
<i>Freedom of Expression of Journalists and Human Rights Defenders: Article 19</i> .....	57
<i>Violation of Ms. Muradova’s Rights under Articles 9 and 19 as a Journalist and Human Rights Defender</i> .....	58
<b>IX. REMEDIES</b> .....	<b>60</b>
<b>X. LIST OF SUPPORTING DOCUMENTS</b> .....	<b>62</b>

## I. THE AUTHOR

**Name:** Khadzhiyev  
**First name:** Annadurdy  
**Nationality:** Turkmenistan  
**Profession:** Ex-Banker, Expert-Freelancer RFE/RL, HR activist  
**Date and place of birth:** [REDACTED]; Ashgabat, Turkmenistan  
**Present address:** [REDACTED], Bulgaria

## II. THE VICTIM (DECEASED)

**Name:** Muradova  
**First name:** Ogulsapar  
**Nationality:** Turkmenistan  
**Profession:** Journalist and human rights activist  
**Date and place of birth:** [REDACTED]; Ashgabat, Turkmenistan  
**Relationship to the author:** Sister (deceased)

## III. LEGAL REPRESENTATIVES OF THE AUTHOR

1. This claim is submitted by the Open Society Justice Initiative, the legal representative of the Author. A letter of authority is attached to this communication.
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## IV. STATE PARTY

3. This communication is submitted against Turkmenistan, which acceded to the International Covenant on Civil and Political Rights and its Optional Protocol on 1 May 1997.

## V. SUMMARY OF THE CLAIM

### Summary of the facts

4. Ogulsapar Muradova was a journalist and human rights activist in Turkmenistan. With the Author and others, she co-founded the Turkmenistan Helsinki Foundation for Human Rights (“THF”), an organization dedicated to promoting human rights issues in Turkmenistan. She also worked for Radio Free Europe/Radio Liberty (RFE/RL), the only independent source of news in the country.

5. On or about 18 June 2006, Turkmen authorities arrested Ms. Muradova during a period of particularly intense government repression of political dissent. They interrogated her without a lawyer, apparently using physical abuse and/or forcible use of drugs, and compelled her to give police the equipment she used in her journalism and activism. The authorities also detained two of her THF colleagues, and when her children reported her detention they were detained as well. The day after her arrest, then-President Saparmurat Niyazov held a televised meeting at which the President and other senior government officials condemned Ms. Muradova and her colleagues as “traitors” who should be “condemned” for their work for THF and in assisting foreign journalists, which was described as “gathering slanderous information in order to sow discontent among the population.”
6. Though her children were released two weeks later, Ms. Muradova was detained virtually without connection to the outside world until her trial on 25 August 2006. Her lawyer was afraid of taking her case, gave her children conflicting information about whether he met with her in custody, and admitted that the authorities were putting pressure on him. During this two-month period, authorities attempted to make Ms. Muradova “confess” to the crimes she had been charged with – weapons possession charges unrelated to the political opposition government officials publicly condemned her for – and that she had committed other “subversive activities” on instruction from the Author and his wife. Ms. Muradova’s family was never allowed to visit her during her detention. In one of the few messages she was able to send to her family, Ms. Muradova said that she “could not stand the mistreatment”.
7. On 25 August 2006, Ms. Muradova and her two THF colleagues were convicted of weapons possession offences following a closed trial that lasted less than two hours. Turkmen officials excluded all members of the public from the trial, including her lawyer and her family, and blocked the road to the court building to prevent access to it. Ms. Muradova was sentenced to six years in prison. The court never issued a written decision, which prevented her lawyer from filing a meaningful appeal.
8. On 14 September 2006, the Turkmen authorities informed Ms. Muradova’s family that she had died while in custody. Morgue employees only permitted her family to see her body after officials from the United States Embassy and the Organization for Security and Co-operation in Europe demanded it. Injuries on her body indicated that she died a violent death; these included a deep vertical red cut in the middle of her forehead, a dark mark around her neck suggestive of strangulation, three open and red wounds on one of her hands, swelling and bruising to the ankle of one of her legs, and a large bruise on one of her lower thighs. A government autopsy – which was never disclosed to the family or made public – reportedly found that Ms. Muradova was probably killed by blows to the back of the head inflicted seven to ten days before she died. Despite these indications of mistreatment, the Turkmen government refused the family’s request for a copy of the autopsy report, ignored requests for an independent autopsy, never investigated the circumstances of Ms. Muradova’s death, and claimed that she died of natural causes. Recently, the government changed its position on her cause of death, telling this Committee it was a suicide.
9. Despite repeated calls from the international community to investigate her mistreatment and death and to provide redress to her family, Turkmenistan has done neither. Instead, Turkmenistan persecuted Ms. Muradova’s children when they tried to draw international attention to her case. As a result, the Author has stopped communicating with Ms. Muradova’s children to avoid jeopardising their safety, and the family could not pursue any domestic remedy for her mistreatment and death. Turkmenistan continues to persecute human rights activists and independent journalists like Ms. Muradova. Muradova’s co-defendants were released in February 2013 after they served their prison term, but it is not possible to speak with them safely.



### **Summary of Domestic Remedies Exhausted**

10. The Author is Ms. Muradova's brother, and has standing to bring this communication on her behalf as a close family member. Prior to making this submission, the Author is not required to exhaust domestic remedies in Turkmenistan because they were unavailable to him and would have been ineffective in any event. Before Ms. Muradova was arrested, the Author fled persecution by Turkmen authorities and was granted refugee status in Bulgaria, where he could not access domestic remedies in Turkmenistan. Moreover, when Ms. Muradova's children communicated with the Author and his wife to draw international attention to Ms. Muradova's case, Turkmen authorities harassed and intimidated them, and specifically warned them not to communicate with the Author or talk about Ms. Muradova. As a result, the Author could not pursue domestic remedies in Turkmenistan, because he did not want to place Ms. Muradova's children at risk of further harm by Turkmen authorities.
11. Even if the Author had access to domestic remedies in Turkmenistan, they would be ineffective. Despite repeated calls from international organizations for an investigation and redress, Turkmenistan has not investigated this case. Only recently did the government tell this Committee – without any proof – that it had investigated her death and that it was a suicide. It is implausible that a complaint by the Author would stand any objective chance of success where respected international organizations have failed. Under these circumstances, the Author is not required to exhaust domestic remedies.

### **Violations of the ICCPR**

12. Turkmenistan has violated the International Covenant on Civil and Political Rights (“ICCPR”) in the following ways:
  - *A. Arbitrary Killing.* Ms. Muradova died in the custody of the Turkmen authorities. Injuries found on her corpse indicate that she died as a result of physical violence. The Turkmen government has not investigated how she died, and has provided only implausible and inconsistent explanations for her death. The government is therefore responsible for her arbitrary killing in violation of Article 6(1) of the ICCPR.
  - *B. Torture.* While holding her in custody, the Turkmen authorities mistreated Ms. Muradova to punish her for her human rights activism and journalism, and in attempt to compel her to confess to “subversive activities” and false criminal charges. This mistreatment, which eventually killed her, amounts to torture in violation of Article 7 of the ICCPR.
  - *C. Lack of Safeguards.* Turkmenistan failed to take measures to protect Ms. Muradova from torture and from the arbitrary deprivation of her life, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(2).
  - *D. Failure to Conduct an Effective Investigation.* Turkmenistan failed to investigate Ms. Muradova's torture and death, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
  - *E. Failure to Provide Redress.* Turkmenistan failed to provide access to effective remedies for the torture and death of Ms. Muradova, in further violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
  - *F. Failure to Have a Judge Rule on Pre-Trial Detention.* The law in effect when Ms. Muradova was arrested provided for a prosecutor, and not a judge or other impartial officer, to rule on her detention, in violation of Article 9(3) of the ICCPR.
  - *G. Violation of Fair Trial Rights.* The Turkmen authorities publicly declared Ms. Muradova's guilt before her trial, denied her prompt effective assistance of a lawyer – including during

interrogation, closed her trial to the public, and prevented her from meaningfully appealing her conviction by failing to issue a written verdict. This violated her rights under Articles 14(1), (2), (3)(b), (3)(d) and (5) of the ICCPR.

- *H. Arbitrary Detention and Freedom of Expression.* The Turkmen authorities arbitrarily detained, tortured and killed Ms. Muradova to silence her journalism and human rights activism, in violation of Articles 9(1) and 19 of the ICCPR.

## VI. FACTS OF THE CLAIM

13. The following factual statement is based on first-hand information that the Author received from Ms. Muradova's daughters, S. Muradova and M. Muradova, and her son, B. Muradov, who relayed it to the Author as it happened.<sup>1</sup> However, as is described in greater detail (see paras. 56-58, below), the Author has ceased direct communication with Ms. Muradova's children to protect them from persecution by Turkmen authorities. Additionally, though Ms. Muradova's colleagues were released from prison in February 2013, they have not been contacted for this communication because their ability to speak is limited – they appear to be under government surveillance and have been warned not to disclose information to international organizations (see para. 72, below). Therefore, this application is supplemented with information that was collected at the time of the events by reliable human rights organizations, and from other publicly available sources.

### **Background: Ogulsapar Muradova**

14. Ogulsapar Muradova was born on [REDACTED] in Ashgabat.<sup>2</sup> She had three children: daughters M. and S. Muradova, and son B. Muradov.<sup>3</sup> She had four brothers, including the Author and another brother named Sapardurdy Khadzhiyev, and four sisters.<sup>4</sup>
15. Ms. Muradova graduated from the Turkmen Polytechnic Institute in Ashgabat, where she studied electrical engineering. She worked with a construction company as the human resources manager.<sup>5</sup> As is explained in more detail, she became a human rights activist, and co-founded the Turkmenistan Helsinki Foundation for Human Rights in 2003 (see paras. 20-22, below). In 2005 she started working as a journalist, cooperating with independent international media (see paras. 23-24, below).

### The Author

16. The Author was formerly the deputy chairman of the National Bank in Turkmenistan; he resigned in 1998. He is married to Tadjigul Begmedova.<sup>6</sup>
17. The Author and his wife fled Turkmenistan in October 2001 because of “mass repression” in the country. This included security services monitoring former government officials and tapping their telephone conversations.<sup>7</sup> The Author and his wife relocated to Bulgaria, where they were later

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<sup>1</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, *passim*.

<sup>2</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 6

<sup>3</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 6; Exhibit 5: Human Rights Watch, “Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders”, 20 June 2006, available at <http://www.hrw.org/en/news/2006/06/19/turkmenistan-arrests-eve-eu-parliament-visit>.

<sup>4</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 1.

<sup>5</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 7

<sup>6</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 2, 4.

<sup>7</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 3-5. Human Rights Watch identified that the human rights situation in Turkmenistan took a “turn for the worse” in 1999. In particular, it described that:

granted refugee status and eventually became residents. Turkmen authorities do not permit them to visit Turkmenistan, and confiscated the house and possessions they had there.<sup>8</sup>

18. In January 2002, then-President Saparmurat Niyazov issued a decree banning current and former government officials from traveling abroad, and made lists of those who had already left. The Author was targeted: in September 2002, the Turkmen authorities accused opposition and civil activists, including the Author, of grand theft of money from the Central Bank. The theft allegedly occurred a year after the Author left Turkmenistan and moved to Bulgaria. In 2002 and 2007, Turkmen authorities sought to extradite the Author from Bulgaria, but Turkmenistan provided no evidence supporting the criminal charges, and the Bulgarian government refused to extradite him as his persecution was of political nature.<sup>9</sup>
19. After the Author and his wife left Turkmenistan, the authorities also persecuted their families. Security officers threatened Ms. Muradova, trying to force her to give evidence against the Author. They threatened that her “children will suffer” and fired her from her job. Additionally, Turkmen authorities imprisoned two of their brothers, deported Ms. Begmedova’s parents from Ashgabat, forced them to live in Dashoguz (northern Turkmenistan), and confiscated her father’s apartment.<sup>10</sup>

#### Co-Founding the Turkmenistan Helsinki Foundation for Human Rights (2003)

20. In August 2003, Ms. Muradova co-founded the Turkmenistan Helsinki Foundation for Human Rights (“THF”) with the Author, his wife Ms. Begmedova, three other Turkmen and two Bulgarians. THF is a human rights group whose stated goals are “to watch human rights, freedom and protection of people of Turkmenistan”, “to sharp[en] the attention of the democratic world to the situation in the country”, and to “help and support everyone who suffers because of his convictions and understandings.”<sup>11</sup> It is based in Varna, Bulgaria<sup>12</sup> because it could not operate in Turkmenistan under the oppressive regime of then-President Niyazov (see paras. 74-83, below).<sup>13</sup> Ms. Begmedova’s parents were forcibly moved from Ashgabat to Dashoguz in northern

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government critics planning to run in upcoming parliamentary elections were arrested; pressure on exiled dissidents, political and religious prisoners via attacks on their family members increased; and removed presidential term limits, effectively designating President Niyazov as Turkmenistan's president for life. Exhibit 28: Human Rights Watch, “Democratization and Human Rights in Turkmenistan: Commission on Security and Cooperation in Europe of the United States House of Representatives Hearing”, 21 March 2000, available at

<http://www.hrw.org/news/2000/03/20/democratization-and-human-rights-turkmenistan>.

<sup>8</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 2- 5, 59-64.

<sup>9</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 4-5, 59-61; Exhibit 87: Varna District Court, Resolution [rejecting Turkmenistan’s extradition request for Annadurdy Karlievich Hadjiev], 22 May 2003, *passim*; see also Exhibit 29: Human Rights Watch, “Bulgaria: Do Not Extradite Turkmen Dissident”, 12 April 2007, available at <http://www.hrw.org/news/2007/04/11/bulgaria-do-not-extradite-turkmen-dissident>; Exhibit 30:

Memorial, “Turkmenistan /Russia / Bulgaria: Annadurdy Kadjiev released on bail by the decision of the Bulgarian court”, 1 December 2002, available at <http://www.memo.ru/d/277.html>; Exhibit 31: Memorial, “The practice of taking hostages sanctioned by head of state”, 2003, available at <http://www.bulletin.memo.ru/b27/page104.html>.

<sup>10</sup> Ms. Begmedova’s father died in 2011, and her mother now lives with relatives in Dashoguz. Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 5, 14, 63-64; Exhibit 29: Human Rights Watch, “Bulgaria: Do Not Extradite Turkmen Dissident”, 12 April 2007; Exhibit 32: Human Rights Watch, “Turkmenistan: Dissident’s Father Sent into Internal Exile”, 4 September 2003, available at <http://www.hrw.org/news/2003/09/03/turkmenistan-dissident-s-father-sent-internal-exile>.

<sup>11</sup> Exhibit 2: Turkmenistan Helsinki Foundation, *Main Page*, available at <http://www.tmhelsinki.org/en/>.

<sup>12</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 8.

<sup>13</sup> Exhibit 7: Committee to Protect Journalists, “CPJ alarmed by reports of abuse in journalist’s detention”, 14 August 2006, available at <http://cpj.org/2006/08/cpj-alarmed-by-reports-of-abuse-in-journalists-det.php>.

Turkmenistan 12 days after they founded the THF; Human Rights Watch called it “a clear case of retaliation”.<sup>14</sup>

21. Both Ms. Muradova and her brother Sapardurdy Khadzhiyev worked for THF, which was very active until Ms. Muradova’s arrest in 2006.<sup>15</sup> For example, in 2003-2004, Ms. Muradova and Sapardurdy Khadzhiyev gathered a list of hundreds of persons who were imprisoned, fired or were otherwise punished by the Turkmen government for disagreeing with it. THF publicized the list on the internet, and sent the information to international organizations. THF also monitored prisons by interviewing people released on amnesties, and worked on problems in Turkmenistan’s education system, healthcare and the media; Ms. Muradova gathered information on these issues.<sup>16</sup> In addition, THF participated in meetings of the Organization for Security and Co-operation in Europe (OSCE), and Ms. Muradova worked closely with current and former OSCE officers, reporting on Turkmen authorities’ abuses in Ashgabat.<sup>17</sup>
22. Ms. Muradova also gave legal consultations to those who were repressed. Friends contacted her for information about how to appeal illegal State action because she was involved with THF, and because she could consult with Ms. Begmedova’s father, a well-respected former deputy prosecutor who understood how to use Turkmen laws and mechanisms of appeal.<sup>18</sup>

#### Ms. Muradova’s Work as a Journalist

23. In 2005, Ms. Muradova started giving interviews on these issues for Radio Free Europe/Radio Liberty (RFE/RL). In 2006 she signed a contract to work for them.<sup>19</sup> At the time, RFE/RL was “the only independent source of news and information in Turkmenistan.”<sup>20</sup> As is described in more detail (see paras. 81-82, below), Turkmen authorities routinely persecuted journalists affiliated with RFE/RL, relatives and friends of the journalists, and private citizens who gave them interviews. This included threats, detentions, interrogations, surveillance, torture and imprisonment.<sup>21</sup>
24. In addition to her work with RFE/RL, Ms. Muradova occasionally assisted foreign media in their work on Turkmenistan. For example, she and THF colleague Annakurban Amanklychev worked with the BBC and a French company called Galaxie Presse, gathering data on health care systems for their journalists and facilitating a trip for them across the country.<sup>22</sup>

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<sup>14</sup> Exhibit 32: Human Rights Watch, “Turkmenistan: Dissident’s Father Sent into Internal Exile”, 4 September 2003 (with reference only to the exile of her father).

<sup>15</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 8-10.

<sup>16</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 9-10.

<sup>17</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 10-11.

<sup>18</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 12.

<sup>19</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 13; Exhibit 15: BBC News, “Journalist dies in Turkmen jail”, 14 September 2006, available at <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/asia-pacific/5346114.stm> (“correspondent”); Exhibit 11: Turkmenistan Helsinki Foundation, “The Journalist Sent on Stage”, 28 August 2006, available at <http://www.tmhelsinki.org/ru/modules/news/article.php?storyid=164> (reported on economics and culture).

<sup>20</sup> Exhibit 33: Committee to Protect Journalists, “Attacks on the Press 2006: Turkmenistan”, 5 February 2007, available at <http://cpj.org/2007/02/attacks-on-the-press-2006-turkmenistan.php>.

<sup>21</sup> Exhibit 3: Committee to Protect Journalists, “Radio journalist arrested without charge or explanation”, 21 June 2006, available at <http://cpj.org/2006/06/radio-journalist-arrested-without-charge-or-explan.php>.

<sup>22</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 13; Exhibit 6: Amnesty International, “Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial”, 31 August 2006, available at <http://www.amnestyinternational.be/doc/actions-en-cours/les-actions-urgentes/Les-actions-urgentes-en-anglais/article/turkmenistan-ogulsapar-muradova-8731>; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc.

## **Detention and Trial of Ms. Muradova**

### Pre-Detention Persecution of Ms. Muradova

25. Before detaining her in 2006, Turkmen authorities pressured Ms. Muradova because of her work. She was periodically summoned to the Ministry of National Security, where officials demanded that she persuade the Author and his wife to end their human rights activities. At these “interrogations”, Ms. Muradova openly said that human rights activities were not prohibited under the Turkmen constitution, that THF was not doing anything illegal, and that she would not persuade the Author or his wife to stop.<sup>23</sup>
26. Prior to her detention, Ms. Muradova believed that agents of the Turkmen government’s Ministry of National Security were watching and intimidating her: agents followed her, watched her apartment constantly, threatened her with eviction from her home, and threatened to imprison her children if she did not stop contributing to RFE/RL. In April 2006, Turkmen authorities turned off her mobile and land telephone lines. In May 2006, she believed that Ministry of National Security agents had placed her and her family under full-scale surveillance. On 17 June, shortly before her arrest, unknown arsonists set fire to her elderly mother’s home.<sup>24</sup>

### Ms. Muradova’s Arrest

27. Around 18 June 2006,<sup>25</sup> two Ashgabat city police officers went to Ms. Muradova’s home and asked her to follow them to the Ashgabat police station. The senior officer told Ms. Muradova’s family that they needed to have a “conversation” with her at the station.<sup>26</sup> They did not have an arrest warrant. Two of her colleagues from THF, Annakurban Amanklychev and Sapardurdy Khadzhiyev (the latter also Ms. Muradova’s brother), were also arrested.<sup>27</sup>
28. Ms. Muradova’s daughters, S. and M. Muradova, went to wait for her at the Ministry of Interior Affairs, where they saw authorities bring Sapardurdy Khadzhiyev after his arrest.<sup>28</sup> A police official eventually approached them and demanded that they bring Ms. Muradova’s computer, fax and cell phone.<sup>29</sup> S. and M. Muradova refused to surrender the items without a warrant.<sup>30</sup> In response, the

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A/HRC/16/47/Add.1, 2 March 2011, p. 83 para. 8, available at

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.47.Add.1\\_AEV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.47.Add.1_AEV.pdf).

<sup>23</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 14.

<sup>24</sup> Exhibit 3: Committee to Protect Journalists, “Radio journalist arrested without charge or explanation”, 21 June 2006.

<sup>25</sup> The term “around” is used because most sources put her arrest on the 18th, but the Author places it on the 16th.

<sup>26</sup> Exhibit 4: Amnesty International, “Global Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist”, 5 December 2006, available at

[http://www.amnesty.org/en/library/asset/EUR61/015/2006/en/328c287e-d3cf-11dd-8743-](http://www.amnesty.org/en/library/asset/EUR61/015/2006/en/328c287e-d3cf-11dd-8743-d305bea2b2c7/eur610152006en.pdf)

[d305bea2b2c7/eur610152006en.pdf](http://www.amnesty.org/en/library/asset/EUR61/015/2006/en/328c287e-d3cf-11dd-8743-d305bea2b2c7/eur610152006en.pdf); Exhibit 5: Human Rights Watch, “Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders”, 20 June 2006.

<sup>27</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 15; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 83 para. 9.

<sup>28</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 15; see Exhibit 5: Human Rights Watch, “Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders”, 20 June 2006.

<sup>29</sup> Exhibit 5: Human Rights Watch, “Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders”, 20 June 2006.

<sup>30</sup> Exhibit 5: Human Rights Watch, “Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders”, 20 June 2006.

police official presented a statement allegedly signed by Ms. Muradova, instructing them to surrender the items.<sup>31</sup> Police then allowed S. and M. Muradova to communicate with their mother via a handheld radio transceiver, and Ms. Muradova told them to do as the official said. However, Ms. Muradova's speech was slurred and inconsistent, and her words incoherent.<sup>32</sup> This raised fears that Ms. Muradova had been drugged or otherwise abused before they spoke. Authorities ultimately seized the equipment.<sup>33</sup>

#### Detention of Ms. Muradova's Children

29. Ms. Muradova's children informed the OSCE in Ashgabat that Ms. Muradova had been arrested.<sup>34</sup> Then, on 19 June, Ms. Muradova's daughters and son were arrested as well. They were kept in an isolated detention facility.<sup>35</sup> The authorities threatened that they would be dismissed from their work, and that one of them would be arrested and prevented from seeing her infant child.<sup>36</sup> They also questioned the children about the Author and his wife.<sup>37</sup>
30. While they were all still detained, Ms. Muradova's children saw her, about three or four days after Ms. Muradova was arrested. She walked past them and looked at them, but they thought she did not recognize them. The children thought she had probably not slept for several nights, and that the police might have drugged her.<sup>38</sup>
31. Ms. Muradova's children were released on 1 July 2006.<sup>39</sup> They were never provided with any official documents regarding their arrest.<sup>40</sup> However, consistent with the threats made by the authorities during their detention, both S. and M. Muradova were dismissed from their jobs.<sup>41</sup>

#### Televised Meeting of Senior Turkmen Authorities on Ms. Muradova's "Crimes"

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<sup>31</sup> Exhibit 5: Human Rights Watch, "Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders", 20 June 2006.

<sup>32</sup> Exhibit 5: Human Rights Watch, "Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders", 20 June 2006; Exhibit 3: Committee to Protect Journalists, "Radio journalist arrested without charge or explanation", 21 June 2006; Exhibit 4: Amnesty International, "Global Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist", 5 December 2006.

<sup>33</sup> Exhibit 5: Human Rights Watch, "Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders", 20 June 2006; Exhibit 3: Committee to Protect Journalists, "Radio journalist arrested without charge or explanation", 21 June 2006; Exhibit 4: Amnesty International, "Global Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist", 5 December 2006.

<sup>34</sup> Exhibit 8: Human Rights Watch, "Turkmenistan: Journalist Dies in Custody," 15 September 2006, available at <http://www.hrw.org/news/2006/09/14/turkmenistan-journalist-dies-custody>.

<sup>35</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 15-17; Exhibit 8: Human Rights Watch, "Turkmenistan: Journalist Dies in Custody," 15 September 2006.

<sup>36</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 17.

<sup>37</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 22.

<sup>38</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 16.

<sup>39</sup> Exhibit 4: Amnesty International, "Global Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist", 5 December 2006.

<sup>40</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 17.

<sup>41</sup> M. Muradova, the older daughter, had been hired as an architect by the Turkish construction company "Belda Insaat Taahhut Tijaret Limited Sirketi" on 11 April 2006. S. Muradova had worked as an accountant in the state-owned company "Turkmenvneshtans" since 20 October 2003. Exhibit 9: US Embassy cable, "OSCE on the Myradova Case", 25 August 2006, available at <http://wikileaks.org/cable/2006/08/06ASHGABAT910.html>.

32. On the same day Ms. Muradova's children were arrested, 19 June 2006, President Niyazov held a meeting concerning the arrests of Ms. Muradova, Annakurban Amanklychev and Sapardurdy Khadzhiyev with the heads of Turkmen law enforcement agencies. The meeting was broadcast on all TV channels and media outlets in the country.<sup>42</sup> At this meeting, officials condemned Ms. Muradova and her colleagues, alleging that they were working for special forces in France.<sup>43</sup> Their work was described as "gathering slanderous information in order to sow discontent among the population." President Niyazov described their actions as an attempt to destabilize the peace in Turkmenistan and instructed a full and thorough investigation of those activities, which was to be given maximum publicity. He said:

"I don't know why [the detainees] are engaged in such dirty business in Turkmenistan, a peaceful country where justice is ruling and where nobody is disgraced. ... Let people condemn the traitors. The entire population is proud of their motherland, whereas they are trying to harm it."<sup>44</sup>

33. Other officials also spoke at this meeting. The Minister of National Security reportedly accused a number of Turkmen activists, foreign journalists and diplomats of having links with members of the opposition, committing espionage, carrying out "subversive activities", and "gathering slanderous information to spread public discontent".<sup>45</sup> Human rights training that Annakurban Amanklychev received in Poland and his association with another human rights group were presented as "secret training methods of gathering information in order to spread discontent among the people, provoking their protests against the government".<sup>46</sup>

#### Conditions of Ms. Muradova's Detention

34. Ms. Muradova and her colleagues remained in detention after their arrests. Ms. Muradova was detained almost without connection to the outside world. The State provided one lawyer to represent Ms. Muradova, her children, and Sapardurdy Khadzhiyev in their respective proceedings.<sup>47</sup> The lawyer told the Author that he was afraid of taking the case and that other lawyers would feel the same.<sup>48</sup> The lawyer for Ms. Muradova and Sapardurdy Khadzhiyev, and Annakurban Amanklychev's lawyer, may have faced pressure from Secret Service agents not to inform the relatives of any violations of the detainees' rights.<sup>49</sup>
35. The family learned from the lawyer that Ms. Muradova had been charged on 21 June 2006 with illegal acquisition, sale, storage, transportation or carrying of ammunition, firearms, or explosives by a group of persons by prior agreement, punishable by imprisonment for a term of two to seven

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<sup>42</sup> Exhibit 6: Amnesty International, "Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial", 31 August 2006; Exhibit 7: Committee to Protect Journalists, "CPJ alarmed by reports of abuse in journalist's detention", 14 August 2006.

<sup>43</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 21.

<sup>44</sup> Exhibit 6: Amnesty International, "Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial", 31 August 2006; Exhibit 7: Committee to Protect Journalists, "CPJ alarmed by reports of abuse in journalist's detention", 14 August 2006.

<sup>45</sup> Exhibit 35: Human Rights Watch, *World Report 2007: Turkmenistan*, 11 January 2007, available at <http://www.unhcr.org/refworld/topic,4565c22532,4565c25f3f5,45aca2a820,0,TKM.html>.

<sup>46</sup> Exhibit 5: Human Rights Watch, "Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders", 20 June 2006.

<sup>47</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 24-25; Exhibit 14: Committee to Protect Journalists, "RFE/RL reporter sentenced to six years jail in secret trial", 25 August 2006, available at <http://cpj.org/2006/08/rferl-reporter-sentenced-to-six-years-jail-in-secr.php>.

<sup>48</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 24.

<sup>49</sup> Exhibit 6: Amnesty International, "Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial", 31 August 2006.

years (Article 287(2) of the Criminal Code of Turkmenistan).<sup>50</sup> The prosecution case was that, while at Ms. Muradova's house, Sapardurdy Khadzhiyev gave several rounds of ammunition to Annakurban Amanklychev to sell.<sup>51</sup> Ms. Muradova maintained her innocence; the Author believes this "angered the authorities".<sup>52</sup> Ms. Begmedova states that law enforcement officers put pressure on them to "confess" to these acts.<sup>53</sup>

36. Sources give different accounts of the number of times Ms. Muradova spoke with her lawyer before her trial.<sup>54</sup> Even the lawyer told the family different things. Initially he told the children that he had seen Ms. Muradova, but admitted a few days later that he had not, and that he tried to postpone meeting with her. The lawyer also tried to avoid meeting with the children. He later admitted it was because the authorities were putting pressure on him.<sup>55</sup> As a result, the children did not trust the lawyer. The Author believes the lawyer did not act in the best interests of Ms. Muradova, her brother or her children because the lawyer was afraid.<sup>56</sup>
37. Ms. Muradova also had minimal contact with her family. Not one family visit was allowed.<sup>57</sup> According to one source, they exchanged a few messages with her while she was incarcerated; Ms. Muradova expressed that "she could not stand the mistreatment" she was suffering.<sup>58</sup> Ms. Begmedova said that Ms. Muradova had been in excellent health before her arrest, but started asking for medicine while she was incarcerated.<sup>59</sup> Because Ms. Muradova had minimal contact with her family and lawyer, she was not able to describe further the physical conditions in which she was detained.
38. The Author believes that Ms. Muradova, Annakurban Amanklychev and Sapardurdy Khadzhiyev were supposed to "confess" that the Author and his wife "incited them to commit crimes."<sup>60</sup> A number of human rights groups, including Amnesty International and Human Rights Watch, expressed concern about "credible allegations that the detainees [Ms. Muradova and her colleagues] have been ill-treated in custody and that psychotropic drugs have been administered to

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<sup>50</sup> Exhibit 12: Turkmenistan Helsinki Foundation, "In Ashgabat jail Amanklychev and Khajiev are inhumane treatment", 28 July 2006, available at <http://www.tmhelsinki.org/ru/modules/news/article.php?storyid=17>; Exhibit 6: Amnesty International, "Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial", 31 August 2006.

<sup>51</sup> Exhibit 6: Amnesty International, "Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial", 31 August 2006.

<sup>52</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 22; Exhibit 9: US Embassy cable, "OSCE on the Myradova Case", 25 August 2006; Exhibit 14: Committee to Protect Journalists, "RFE/RL reporter sentenced to six years jail in secret trial", 25 August 2006.

<sup>53</sup> Exhibit 6: Amnesty International, "Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial", 31 August 2006.

<sup>54</sup> E.g. Exhibit 36: FIDH, "Death in detention of Mrs. Ogulsapar Muradova", 15 September 2006, available at <http://www.fidh.org/Death-in-detention-of-Mrs> (no visits allowed); Exhibit 9: US Embassy cable, "OSCE on the Myradova Case", 25 August 2006 (visits each week).

<sup>55</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 25-26.

<sup>56</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 25-26; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 84 para. 13, p. 85 para. 24 (describing only with regard to Sapardurdy Khajiev that his lawyer "did not act in" his interests, avoided meeting with him, and "tried to convince [him] to confess to the reportedly false charges").

<sup>57</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 26.

<sup>58</sup> Exhibit 10: Reporters sans Frontieres, "Muradova died under torture in high-security prison at least four days before her family was told", 20 September 2006, available at <http://en.rsf.org/turkmenistan-muradova-died-under-torture-in-20-09-2006,18938.html>.

<sup>59</sup> Exhibit 15: BBC News, "Journalist dies in Turkmen jail", 14 September 2006.

<sup>60</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 22.



[Annakurban Amanklychev] and Muradova to force them to ‘confess’ to ‘subversive activities’,” and urging their immediate release.<sup>61</sup>

#### Ms. Muradova’s Indictment and Trial

39. In late August 2006, Ms. Muradova’s children heard that there would be a hearing, but were not sure whether it would concern Ms. Muradova’s case. Annakurban Amanklychev’s lawyer thought it was only for him. A few days later, on 25 August 2006, Ms. Muradova, Annakurban Amanklychev and Sapardurdy Khadzhiyev were tried jointly. Her children only learned that Ms. Muradova would be tried on the day of the trial: they were waiting near the courthouse, and Ms. Muradova’s lawyer told them that her trial would be held that day.<sup>62</sup>
40. Turkmen authorities had asserted that the three defendants might also be charged with espionage and high treason,<sup>63</sup> but they were tried only for weapons-related offenses. The defence lawyers did not receive a copy of the indictment before the trial.<sup>64</sup> The trial lasted less than two hours,<sup>65</sup> and took place behind closed doors. The Turkmen authorities excluded Ms. Muradova’s family members and other observers.<sup>66</sup> They barred the public by blocking the road to the courthouse, cancelling other court hearings scheduled for the same day, and posting employees of the Ministry of National Security and armed soldiers in the courtroom.<sup>67</sup> Additionally, Ministry of National Security officers in a car near the court building filmed everyone who came close to it, while other officers on the street took down the names of anybody they could identify.<sup>68</sup>
41. At the trial, Turkmen authorities prevented Ms. Muradova and her colleagues from presenting their case. Soldiers initially prevented Ms. Muradova’s lawyer from entering the court building, but he was later able to enter. He told the family that he was present in the courtroom for Ms. Muradova’s trial, but the Author is uncertain about whether to believe him,<sup>69</sup> and other reports suggest that the lawyer may have been excluded from the trial.<sup>70</sup> Reports indicate that Ms. Muradova and her

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<sup>61</sup> See Exhibit 13: Amnesty International, Bulgarian Helsinki Committee, Donetsk Memorial, Human Rights Watch, International Helsinki Federation, Reporters sans Frontieres, Turkmenistan Helsinki Foundation, and Turkmenistan Initiative, “Turkmenistan: Open letter from a coalition of human rights organizations”, 18 July 2006, available at <http://www.amnesty.org/en/library/asset/EUR61/010/2006/en/26326ed3-d40f-11dd-8743-d305bea2b2c7/eur610102006en.html>.

<sup>62</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 27; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 84 para. 12, p. 85 para. 24.

<sup>63</sup> Exhibit 9: US Embassy cable, “OSCE on the Myradova Case”, 25 August 2006.

<sup>64</sup> Exhibit 6: Amnesty International, “Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial”, 31 August 2006.

<sup>65</sup> Exhibit 6: Amnesty International, “Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial”, 31 August 2006; Exhibit 15: FIDH, “Harassment against the family of Mrs. Ogulsapar Muradova”, 31 October 2006, available at <http://www.fidh.org/Arbitrary-detentions-Harassment> (“just a few minutes”).

<sup>66</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 27, 29; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 84 para. 14, p. 85 para. 25.

<sup>67</sup> Exhibit 11: Turkmenistan Helsinki Foundation, “The Journalist Sent on Stage”, 28 August 2006; Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 27, 29.

<sup>68</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 29; Exhibit 6: Amnesty International, “Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial”, 31 August 2006.

<sup>69</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 28.

<sup>70</sup> Exhibit 14: Committee to Protect Journalists, “RFE/RL reporter sentenced to six years jail in secret trial”, 25 August 2006; Exhibit 15: FIDH, “Harassment against the family of Mrs. Ogulsapar Muradova”, 31 October 2006.

colleagues were not allowed to make full statements<sup>71</sup> – at most they may have received one or two minutes to give a statement – and no witnesses were allowed in the courtroom.<sup>72</sup> All three were found guilty as charged. Ms. Muradova was sentenced to six years in prison, while Annakurban Amanklychev and Sapardurdy Khadzhiyev were sentenced to between six and seven years.<sup>73</sup>

42. The family never received a copy of the verdict.<sup>74</sup> Thus, they could not file a meaningful appeal. The lawyer may have followed a practice – common in Turkmenistan, according to the Author – of filing a blank appeal in order to have filed something before expiry of the filing deadline.<sup>75</sup>
43. The family has never received any further information on the proceedings.

### **Ms. Muradova's Death in Custody**

#### The Family Learns of Ms. Muradova's Death

44. After the trial, Ms. Muradova was kept at a temporary detention facility of the Ministry of the Interior.<sup>76</sup> Police did not formally tell the family where she was held; rather, they learned through “unofficial channels from guards of the temporary detention facility.”<sup>77</sup> The Author believes she was kept in a pre-trial detention facility to continue the abuse.<sup>78</sup>
45. On 13 September 2006, the day before the family learned of Ms. Muradova's death, one of her daughters called the Author and his wife in Bulgaria. She was frightened and said she saw “suspicious” cars constantly in front of their house. She said they were afraid the authorities planned to arrest Ms. Muradova's son.<sup>79</sup>
46. The following day, 14 September 2006, a neighbour who was a former law enforcement officer informed Ms. Muradova's family that Ms. Muradova had died. It seemed that the government “just did not want to deal with informing them of their mother's death”, and that security services thus asked the neighbour to relay the information.<sup>80</sup>
47. The Author told Ms. Muradova's children to call the OSCE and the United States (US) Embassy and tell them about what happened. The Author believed that the diplomats would “appeal to different authorities.” The Author and his wife also informed contacts at Human Rights Watch and Amnesty International about Ms. Muradova's death.<sup>81</sup> Ms. Muradova's daughters went to the OSCE office in Ashgabat, where they confirmed Ms. Muradova's death with Turkmen authorities.<sup>82</sup>

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<sup>71</sup> See Exhibit 11: Turkmenistan Helsinki Foundation, “The Journalist Sent on Stage”, 28 August 2006.

<sup>72</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 29; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 84 para. 14, p. 85 para. 25.

<sup>73</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 29; Exhibit 11: Turkmenistan Helsinki Foundation, “The Journalist Sent on Stage”, 28 August 2006; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 84 para. 14, p. 85 para. 25.

<sup>74</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 29.

<sup>75</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 30.

<sup>76</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 31, 35.

<sup>77</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 35.

<sup>78</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 31.

<sup>79</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 33.

<sup>80</sup> Exhibit 4: Amnesty International, “Global Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist”, 5 December 2006; Exhibit 10: Reporters sans Frontieres, “Muradova died under torture in high-security prison at least four days before her family was told”, 20 September 2006; Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 34.

<sup>81</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 36.

<sup>82</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 37.

### Handover of Ms. Muradova's Body to the Family

48. After confirming Ms. Muradova's death, someone from the morgue said to come and "sign the papers."<sup>83</sup> Her children went to the morgue. At first they were not allowed to see Ms. Muradova's body. After the daughters protested, they were shown Ms. Muradova's body, but with a cover on it, and still were not allowed to take the body. Two police officers – who appeared to be drunk – mocked them, saying "we will show you who is who".<sup>84</sup> Morgue workers refused to let them take Ms. Muradova's body, but tried to force them to sign a paper saying that they had seen it, threatening the family with "serious consequences if they do not sign".<sup>85</sup> Officers also shouted at the family that, "If you don't sign this you will never see her body."<sup>86</sup>
49. When they could not get Ms. Muradova's body, Ms. Begmedova advised them to insist on it. Thus, the family left the morgue and went to the US Embassy, where they asked officials to return with them to the morgue. US Embassy officials called the OSCE and asked for a representative to join them there. Then, a US Embassy representative went with the family back to the morgue, and they met an OSCE official at the entrance. The morgue gave custody of Ms. Muradova's body to the family, but only when the US Embassy and OSCE representatives insisted.<sup>87</sup> As US Embassy staff escorted the family home, the children telephoned the Author, crying, "She has a huge wound on the head".<sup>88</sup>
50. Ms. Muradova was buried the next day. The children saw more suspicious cars around the building where they lived, strangers walked into their apartment building and listened to relatives' conversations, and some relatives were afraid to come into their apartment.<sup>89</sup> Police officers tried to deter them from attending Ms. Muradova's funeral.<sup>90</sup>

### Injuries on Ms. Muradova's Body

51. After bringing Ms. Muradova's body home, her family and US Embassy officers inspected it.<sup>91</sup> They observed the following injuries:
- A deep vertical red cut in the middle of her forehead, which was about 5 centimetres long;
  - A dark mark around her whole neck, about one centimetre broad;
  - Three open, red wounds on one of her hands, less than one centimetre in diameter each;
  - Swelling and bruising to the ankle of one of her legs; and
  - A large bruise on one of her lower thighs.<sup>92</sup>

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<sup>83</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 38.

<sup>84</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 38.

<sup>85</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 38.

<sup>86</sup> Exhibit 38: Amnesty International, "Document - Turkmenistan: Further information on Arbitrary detention/Fear of torture", 14 September 2006, available at <http://195.234.175.160/en/library/asset/EUR61/013/2006/en/90e87603-d3f3-11dd-8743-d305bea2b2c7/eur610132006en.html>.

<sup>87</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 38-39; see also Exhibit 15: BBC News, "Journalist dies in Turkmen jail", 14 September 2006; Exhibit 17: Turkmenistan Helsinki Foundation, "Amnesty International: Ogulsapar Muradova died in custody", 14 September 2006, available at <http://www.tmhelsinki.org/en/modules/news/print.php?storyid=4>.

<sup>88</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 40.

<sup>89</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 42.

<sup>90</sup> Exhibit 15: FIDH, "Harassment against the family of Mrs. Ogulsapar Muradova", 31 October 2006.

<sup>91</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 40.

<sup>92</sup> Exhibit 18: US Embassy cable, "Myradova Dies In Prison, Circumstances Unknown" 14 September 2006, available at <http://wikileaks.org/cable/2006/09/06ASHGABAT963.html>; Exhibit 4: Amnesty International, "Global

52. US Embassy staff also took pictures of Ms. Muradova's body, but did not give copies of the photographs to the family.<sup>93</sup>

#### Results of Apparent Autopsy Never Disclosed

53. In addition to these injuries, Ms. Muradova's body had a long, deep cut from the neck to the waist that had been sown back together, indicative of an autopsy.<sup>94</sup> However, the family never received an autopsy report.<sup>95</sup> At some stage, the family separately requested an independent autopsy, but Turkmen authorities never responded.<sup>96</sup> Turkmen authorities claimed that she died of natural causes.<sup>97</sup>
54. In its investigation into Ms. Muradova's death, German public radio station *Deutsche Welle* learned that an autopsy was carried out on 12 September 2006 in the presence of police. *Deutsche Welle* reported that Ms. Muradova's body bore marks on the neck characteristic of strangling. It also reported that, in addition to the visible injuries described above, the autopsy found that Ms. Muradova suffered internal bleeding from the liver and left kidney, and that her death was probably caused by blows to the back of the head that were inflicted seven to ten days before she died. According to *Deutsche Welle's* source, these findings were recorded on an official document, which the police kept and which may have been altered subsequently.<sup>98</sup>
55. On 16 September 2006, Turkmenistan's Minister of Foreign Affairs, Rashit Meredov, met with OSCE Ambassador Djikic. Meredov stated that Turkmenistan did not intend to make public the results of Ms. Muradova autopsy, and that local law did not permit the government to release the autopsy results to anybody other than family members. He also said that an investigation was still pending into additional charges of espionage and treason against Annakurban Amanklychev and Sapardurdy Khadzhiyev.<sup>99</sup>

#### **Continued Harassment of Ms. Muradova's Family**

56. For the first few days after they learned about Ms. Muradova's death, her family in Ashgabat stayed in frequent contact with the Author and his wife, as well as representatives of Human Rights Watch and Amnesty International.<sup>100</sup> About 10-15 days after Ms. Muradova's death, her children told the

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Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist", 5 December 2006; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 83 para. 10.

<sup>93</sup> Despite requests from the family and Human Rights Watch for the pictures, the State Department of the US has not provided them. Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 40.

<sup>94</sup> Exhibit 18: US Embassy cable, "Myradova Dies In Prison, Circumstances Unknown" 14 September 2006.

<sup>95</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 41.

<sup>96</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 41; Exhibit 20: Committee to Protect Journalists, "Ogulsapar Muradova – Radio Free Europe/Radio Liberty", September 2006, available at <http://cpj.org/killed/2006/ogulsapar-muradova.php>.

<sup>97</sup> Exhibit 19: Human Rights Watch, Freedom Now, and the Turkmen Initiative for Human Rights, "Turkmenistan Universal Periodic Review Submission", 5 October 2012, available at <http://www.hrw.org/news/2012/10/05/turkmenistan-universal-periodic-review-submission>; Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 83 para. 10.

<sup>98</sup> Exhibit 10: Reporters sans Frontieres, "Muradova died under torture in high-security prison at least four days before her family was told", 20 September 2006.

<sup>99</sup> Exhibit 21: US Embassy cable, "Government of Turkmenistan Refuses to Make Public Myradova Autopsy", 18 September 2006, available at <http://wikileaks.org/cable/2006/09/06ASHGABAT987.html>.

<sup>100</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 43.

Author that they were being persecuted and threatened for staying in contact with the Author and his wife, and for their connection to THF.<sup>101</sup> Authorities showed the children records they kept of their conversations.<sup>102</sup> On several occasions, the authorities expressly warned the family not to contact the Author, and that “too much information is getting out.”<sup>103</sup> They were also told not to talk about Ms. Muradova. The Author thinks they may have been taken to the Ministry of National Security at some point, and to the police station.<sup>104</sup>

57. The Author asked them if it would be better if he and his wife stopped calling. The children said they would find a way to pass on information if something happened.<sup>105</sup> Subsequently, the children’s phone lines were cut.<sup>106</sup> Now, the Author and his wife do not have direct communication with Ms. Muradova’s children, as the children are “very scared” and the Author does not want the government to start abusing them again.<sup>107</sup> Ms. Muradova’s family members have also refrained from further contact with the OSCE, since they were told that OSCE was characterized during the trial as being a “co-participant” in the crime.<sup>108</sup>
58. For at least a year, Turkmen authorities continued to pressure Ms. Muradova’s children to keep silent about her death.<sup>109</sup> They were put on a list of people who are not permitted to leave Turkmenistan.<sup>110</sup> As a result of the repeated harassment, Ms. Muradova’s family could not lodge direct requests with the Turkmen authorities to investigate Ms. Muradova’s death or seek redress from the government.

#### **Turkmen Authorities Fail to Investigate Ms. Muradova’s Death**

59. After she died, the Author and his wife made numerous attempts to obtain some form of redress for Ms. Muradova’s death, and the international community – including international NGOs and UN officers and bodies – repeatedly called for an independent investigation. However, no reliable investigation of her death has been conducted,<sup>111</sup> and Turkmen authorities have conflictingly called her death “natural” and a “suicide.”

#### Attempts by the Author and His Wife to Obtain Redress

60. Before Ms. Muradova died, the Author and his wife passed information they learned about her detention to representatives of Human Rights Watch.<sup>112</sup> On a daily basis, they tried to spread word about what happened, including through press releases and calls.<sup>113</sup> Ms. Muradova’s children also tried to help Ms. Muradova. They kept in constant contact with OSCE officials in Ashgabat, consulting with them in attempt to most effectively use any available mechanisms. As the Author

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<sup>101</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 44.

<sup>102</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 44.

<sup>103</sup> Exhibit 18: US Embassy cable, “Myradova Dies In Prison, Circumstances Unknown” 14 September 2006;

Exhibit 15: FIDH, “Harassment against the family of Mrs. Ogulsapar Muradova”, 31 October 2006.

<sup>104</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 44-45.

<sup>105</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 45.

<sup>106</sup> Exhibit 15: FIDH, “Harassment against the family of Mrs. Ogulsapar Muradova”, 31 October 2006.

<sup>107</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 52.

<sup>108</sup> Exhibit 22: US Embassy cable, “Myradova Trial Concludes with Six-Year Sentence”, 25 August 2006, available at <http://wikileaks.org/cable/2006/08/06ASHGABAT911.html>.

<sup>109</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 45.

<sup>110</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 52.

<sup>111</sup> Exhibit 19: Human Rights Watch, Freedom Now, and the Turkmen Initiative for Human Rights, “Turkmenistan Universal Periodic Review Submission”, 5 October 2012.

<sup>112</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 19.

<sup>113</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 20. Several press-releases and statements are included in the Annex.

describes, “They did everything they could to prove the innocence of their mother and to get their mother out of jail.”<sup>114</sup>

61. Immediately after Ms. Muradova’s death, the Author and his wife “appealed to every institution [they] could” – speaking to the media, diplomats, and NGOs including Amnesty International, the Committee to Protect Journalists and Human Rights Watch.<sup>115</sup> They did not initially file complaints with any international organizations or courts because they were told “she is dead, nothing can be done.”<sup>116</sup> The children could not make any complaints on Ms. Muradova’s behalf because they were “under threat” and “in a lot of danger.” The Author and his wife were “afraid to hurt them” by making any complaint on their behalf, especially given their previous arrests.<sup>117</sup>
62. In December 2006, President Niyazov died,<sup>118</sup> and the Author hoped that a new President might bring “change for the better” – that Ms. Muradova’s death might “be considered in Turkmen court.” However, it quickly became clear to the Author that the new regime would be “cruel” like the previous one, but “more sophisticated” – “It hides the information, and lies.”<sup>119</sup>
63. Nevertheless, the Author and his wife continued their attempts to seek redress for Ms. Muradova’s death. Immediately after she died, the Author and his wife began to issue press statements, and began working on her case with Amnesty International and Human Rights Watch, which contacted the Turkmen authorities directly and sent appeals to the Turkmen authorities to investigate Ms. Muradova’s death (see para. 64, below).<sup>120</sup> With Reporters sans Frontieres, the Author and his wife also picketed the Turkmenistan Embassy in Paris in 2007 and 2008.<sup>121</sup> In 2009, they, together with Amnesty International, sent a package with thousands of letters requesting an investigation into Ms. Muradova’s case to the President of Turkmenistan.<sup>122</sup> In June 2011, Ms. Begmedova reported on Ms. Muradova’s death to the UN Committee against Torture and asked it to raise her killing and the lack of investigation into it with the government. In September 2011, the Author and Ms. Begmedova spoke about Ms. Muradova at the OSCE Conference on the implementation of Commitments on Human Dimension, and at a meeting before the conference.<sup>123</sup>

#### International Outcry

64. Ms. Muradova’s arrest, conviction and death in custody received wide international attention, with repeated calls for a thorough and independent investigation into her death. Just after Ms. Muradova’s death became public, the spokesman for the UN High Commissioner for Human Rights “urge[d] the Turkmen authorities to conduct a thorough, prompt and independent investigation into the cause of her death, including an independent medical examination of the body, and to make public the results of that inquiry.”<sup>124</sup> Amnesty International issued a statement on the day her death became public, expressing its concern “at allegations that she was subjected to torture and ill-treatment in detention” and urged “the authorities to conduct a thorough, prompt and

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<sup>114</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 32.

<sup>115</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 50.

<sup>116</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 50.

<sup>117</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 50.

<sup>118</sup> Exhibit 23: FIDH, *Alternative Report on the Human Rights Situation in Turkmenistan for the Universal Periodic Review*, 2008, at p. 5, available at [http://www.fidh.org/IMG/pdf/Alternative\\_report\\_Turk\\_UPR\\_eng.pdf](http://www.fidh.org/IMG/pdf/Alternative_report_Turk_UPR_eng.pdf).

<sup>119</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 51.

<sup>120</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 53-55.

<sup>121</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 57.

<sup>122</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 53.

<sup>123</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 57.

<sup>124</sup> Exhibit 37: Al Jazeera, “Turkmen reporter’s death ‘disturbs’ UN”, 16 September 2006, available at <http://www.aljazeera.com/archive/2006/09/2008410142537490523.html>.

independent investigation into her death.”<sup>125</sup> It repeated these calls in 2010<sup>126</sup> and 2012.<sup>127</sup> Similarly, Human Rights Watch called on Turkmen authorities to investigate Ms. Muradova’s death “as a matter of urgent priority”.<sup>128</sup> Other organizations, including Reporters sans Frontieres,<sup>129</sup> the Committee to Protect Journalists,<sup>130</sup> and the OSCE<sup>131</sup> issued similar statements. Amnesty International<sup>132</sup> and Reporters sans Frontieres<sup>133</sup> also organized global letter-writing campaigns, demanding a thorough investigation of the death of Ms. Muradova. The Committee to Protect Journalists continues to ask for investigation of Ms. Muradova’s death as part of its on-going campaign “Speak Justice Now”.<sup>134</sup>

65. Ms. Muradova’s detention and death have also been repeatedly raised during reviews before UN human rights bodies. Two years after her death, in December 2008, Turkmenistan was reviewed under the Universal Periodic Review (UPR) mechanism of the UN Human Rights Council. Canada recommended an investigation into Ms. Muradova’s death, while Denmark enquired about initiatives to be taken to ensure reliable investigation of deaths in custody, including that of Ms. Muradova.<sup>135</sup> Amnesty International also urged Turkmenistan to end harassment and intimidation of journalists, indicating its concern about serious violations against human rights defenders, journalists and dissidents in Turkmenistan, and urged the government to conduct an independent investigation into Ms. Muradova’s death.<sup>136</sup> The related report of the High Commissioner for Human Rights summarized the circumstances of Ms. Muradova’s detention and death.<sup>137</sup>

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<sup>125</sup> Exhibit 38: Amnesty International, “Turkmenistan: Further information on Arbitrary detention/Fear of torture,” 14 September 2006.

<sup>126</sup> Exhibit 39: Amnesty International, “Take action to carry human rights along the silk route in Central Asia!”, June 2010, available at <http://www.amnesty.org/en/library/asset/EUR04/001/2010/en/560c64a9-6a85-4e6c-b519-0daa64ed75e1/eur040012010en.pdf>.

<sup>127</sup> Exhibit 40: Amnesty International, “Key human rights challenges facing Turkmenistan,” 10 February 2012, available at <http://www.amnesty.org/en/library/asset/EUR61/002/2012/en/63ec1ff6-3377-40ff-a198-196c1f4c88b5/eur610022012en.pdf>.

<sup>128</sup> Exhibit 41: Human Rights Watch, “Turkmenistan: Journalist Dies in Custody: Authorities Must Permit Independent Forensic Examination,” 14 September 2006, available at <http://www.hrw.org/en/news/2006/09/14/turkmenistan-journalist-dies-custody>. See also Exhibit 42: Human Rights Watch, “Letter to President Gurbanguly Berdymukhamedov regarding human rights concerns in Turkmenistan”, 12 March 2009, available at <http://www.hrw.org/en/news/2009/03/12/letter-president-gurbanguly-berdymukhamedov-regarding-human-rights-concerns-turkmeni>.

<sup>129</sup> Exhibit 43: Reporters sans Frontieres, “Journalist Ogulsapar Muradova Dies Violently In Prison,” 14 September 2006, available at <http://en.rsf.org/turkmenistan-journalist-ogulsapar-muradova-dies-14-09-2006,18863.html>.

<sup>130</sup> Exhibit 44: Committee to Protect Journalists, “RFE/RL reporter dies in prison,” 14 September 2006, available at <http://cpj.org/2006/09/rferl-reporter-dies-in-prison.php>.

<sup>131</sup> See Exhibit 45: OSCE, “OSCE Chairman calls for investigation into death of imprisoned Turkmen journalist”, 15 September 2006, available at <http://www.osce.org/cio/47637>.

<sup>132</sup> Exhibit 4: Amnesty International, “Global Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist”, 5 December 2006.

<sup>133</sup> Exhibit 46: Reporters sans Frontieres, “Annakurban Amanklychev and Sapardurdy Khajiyev”, 24 July 2006, available at <http://en.rsf.org/annakurban-amanklychev-and-24-07-2006,18343.html>.

<sup>134</sup> Speak Justice Now, “Murdered Journalists”, [no date] available at <https://www.speakjusticenow.org/home/?en>.

<sup>135</sup> Exhibit 47: UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Turkmenistan*, UN Doc. A/HRC/10/79, 6 January 2009, paras. 29, 35, available <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/100/69/PDF/G0910069.pdf?OpenElement> .

<sup>136</sup> Exhibit 48: UN Human Rights Council, *Report of the Human Rights Council on its tenth session*, UN Doc. A/HRC/10/29, 9 November 2009, para. 564, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/174/51/PDF/G0917451.pdf?OpenElement>.

<sup>137</sup> Exhibit 49: UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1:*

66. Turkmenistan has not provided any official response to the recommendations made during its UPR.<sup>138</sup> Human Rights Watch reported that Turkmenistan rejected the Council’s recommendation to investigate Ms. Muradova’s death, along with a number of other key recommendations, such as the release of political prisoners, a transparent review of the political cases of past years and the lifting of travel bans on human rights defenders.<sup>139</sup>
67. Subsequently, in May 2011, Turkmenistan was reviewed during the 46<sup>th</sup> session of the UN Committee against Torture. In its submissions, Turkmenistan only generally discussed how its laws and practices implement the Convention against Torture, including its prohibition of torture and provisions concerning civil and criminal liability for the illegal actions of State bodies and officials.<sup>140</sup> Conversely, NGOs specifically raised Ms. Muradova’s death. Human Rights Watch submitted a report noting that Turkmenistan had still not investigated Ms. Muradova’s death,<sup>141</sup> while Freedom Now recommended that Turkmenistan “adopt all necessary action to fully investigate the circumstances of the torture and ill-treatment of Ms. Muradova ... and, based on the results of such investigation, take appropriate measures against those responsible for that treatment.”<sup>142</sup> In its concluding observations on this review, the UN Committee against Torture stated that it was “deeply concerned about numerous and consistent reports on a number of deaths in custody and on the alleged restrictions on independent forensic examination into the cases of such deaths, including the case of Ogulsapar Muradova”. It urged Turkmenistan to “promptly, thoroughly and impartially investigate all incidents of death in custody; to make the results of those investigations available to the public; and to prosecute those responsible for committing violations of the Convention leading to such deaths”.<sup>143</sup>
68. Most recently, in March 2012, Turkmenistan was reviewed during the 104<sup>th</sup> session of this Committee. Freedom Now reiterated its recommendation that Turkmenistan “[i]nvestigate the circumstances of the torture and ill-treatment of ... Ms. Muradova and, based on the results of such investigation, take appropriate measures against those responsible for that treatment.”<sup>144</sup> The International Partnership for Human Rights similarly urged this Committee to call on Turkmenistan to “ensure that an independent and thorough investigation is carried out into the death in custody of

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*Turkmenistan*, A/HRC/WG.6/3/TKM/2, 29 September 2008, para. 38, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/161/79/PDF/G0816179.pdf?OpenElement>.

<sup>138</sup> See Exhibit 50: *UPR implementation (information provided by States)*, [no date] available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx>.

<sup>139</sup> Exhibit 51: Human Rights Watch, *World Report 2010*, 2010, p. 464-465, available at <http://www.hrw.org/sites/default/files/reports/wr2010.pdf>; Exhibit 19: Human Rights Watch, Freedom Now, and the Turkmen Initiative for Human Rights, “Turkmenistan Universal Periodic Review Submission”, 5 October 2012.

<sup>140</sup> Exhibit 52: Committee against Torture, *Consideration of reports submitted by States parties under article 19 of the Convention Initial reports of States parties due in 2000: Turkmenistan*, UN Doc. CAT/C/TKM/1, 6 August 2010, *passim*, available at [http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.TKM.1\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.TKM.1_en.pdf).

<sup>141</sup> Exhibit 53: Human Rights Watch, “Human Rights Watch Submission to the United Nations Committee against Torture on Turkmenistan,” April 2011, p. 5-6, available at [http://www2.ohchr.org/english/bodies/cat/docs/ngos/HRW\\_TurkmenistanCAT46.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/HRW_TurkmenistanCAT46.pdf).

<sup>142</sup> Exhibit 53: Freedom Now, “Communication to the Committee against Torture Turkmenistan Session,” 21 April 2011, p. 7, available at [http://www2.ohchr.org/english/bodies/cat/docs/ngos/FreedomNow\\_Turkmenistan46.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/FreedomNow_Turkmenistan46.pdf).

<sup>143</sup> Exhibit 55: Committee against Torture, *Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture*, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 16, available at <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.TKM.CO.1.pdf>.

<sup>144</sup> Exhibit 56: Freedom Now, “Communication to the Human Rights Committee Turkmenistan Session”, 26 January 2012, p. 8, available at [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/FreedomNow\\_Turkmenistan\\_HRC104.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/FreedomNow_Turkmenistan_HRC104.pdf).



Ogulsapar Muradova”.<sup>145</sup> In turn, Turkmenistan’s First Deputy Minister of Foreign Affairs claimed that Turkmenistan *had* investigated Ms. Muradova’s death, that the investigation revealed that the death was a “suicide”, and that “the appropriate international bodies had been kept well informed.”<sup>146</sup> However, no details of any such investigation have ever been produced. At the same time, the Deputy Minister also disparaged RFE/RL, stating that “Radio Liberty broadcasts false information,” that “[t]hey are in it for the money,” and that, while they had a right to broadcast their opinions about human rights issues in Turkmenistan, this was not “journalism.”<sup>147</sup>

69. In its concluding observations, this Committee, though not directly discussing Ms. Muradova, expressed concern “at reports of the harassment and intimidation of journalists and human rights defenders in the State party” and urged Turkmenistan to “ensure that journalists, human rights defenders and individuals are able to freely exercise their right to freedom of expression in accordance with the Covenant”.<sup>148</sup>

#### **Detention and Release of Annakurban Amanklychev and Sapardurdy Khadzhiyev**

70. After her death, Ms. Muradova’s colleagues, Annakurban Amanklychev and Sapardurdy Khadzhiyev, were transferred to an Akdash penal colony in Turkmenbashi Province.<sup>149</sup> Their family was not able to visit or call them for the first two years of their detention.<sup>150</sup> The Author also received an anonymous phone call during which he was told “shut up and we will free your brother [Sapardurdy Khadzhiyev]”.<sup>151</sup> Following pressure from international organizations and the US Congress and State Department, minimal family visits were allowed.<sup>152</sup> For example, in 2009-2010, Annakurban Amanklychev was allowed two visits by his wife, and Sapardurdy Khadzhiyev was allowed one visit from his sister.<sup>153</sup>
71. In August 2010, the UN Working Group on Arbitrary Detention found that the continued detention of Annakurban Amanklychev and Sapardurdy Khadzhiyev is arbitrary and requested the government of Turkmenistan release them immediately and to provide them with economic compensation.<sup>154</sup>

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<sup>145</sup> Exhibit 57: International Partnership for Human Rights, “Review of Turkmenistan under the International Covenant on Civil and Political Rights,” 30 January 2012, p.13, available at [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/IP\\_Turkmenistan\\_HRC104.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/IP_Turkmenistan_HRC104.pdf).

<sup>146</sup> Exhibit 58: UNHRC, “Human Rights Committee Notes Turkmenistan’s ‘New Willingness’ to Improve Human Rights Record, but Says Gap Remains between Legal Framework, Implementation”, UN Doc. HR/CT/743, 16 March 2012, available at <http://www.un.org/News/Press/docs/2012/hrct743.doc.htm>.

<sup>147</sup> Exhibit 58: UNHRC, “Human Rights Committee Notes Turkmenistan’s ‘New Willingness’ to Improve Human Rights Record, but Says Gap Remains between Legal Framework, Implementation”, UN Doc. HR/CT/743, 16 March 2012.

<sup>148</sup> Exhibit 59: UNHRC, *Advance Unedited Version – Consideration of reports submitted by States parties under article 40 of the Covenant – Concluding observations of the Human Rights Committee*, [no UN Doc. number or date], para. 18, available at <http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.TKM.CO.1.doc>.

<sup>149</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, paras. 35, 46.

<sup>150</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 47.

<sup>151</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 48.

<sup>152</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 47.

<sup>153</sup> Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 84 para. 18.

<sup>154</sup> Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, 2 March 2011, UN Doc. A/HRC/16/47/Add.1, p. 85-86 paras. 28, 29.

72. On 16 February 2013, Annakurban Amanklychev and Sapardurdy Khadzhiyev were released after serving out their prison terms.<sup>155</sup> The Author received information that government security agents are monitoring their telephone lines, and have warned them not to disclose any information to international organizations. The Author has not spoken with Annakurban Amanklychev or Sapardurdy Khadzhiyev since their release.<sup>156</sup>

### **Context: Systematic Human Rights Abuses in Turkmenistan**

73. The detention, mistreatment and death of Ms. Muradova were a consequence of Turkmenistan's pervasive system of human rights abuses.<sup>157</sup> Since before Ms. Muradova's death, the government has repressed political dissent, tightly controlled the media, mistreated and killed detainees, and denied defendants fair trial rights. Turkmenistan has been described as one of the most "repressive"<sup>158</sup> and "totalitarian"<sup>159</sup> governments in the world, and as having an "appalling human rights record".<sup>160</sup> This situation persists today.<sup>161</sup> The country remains closed to any independent human rights scrutiny. No independent organization has been permitted to monitor the human rights situation inside the country, and no fewer than ten UN special procedures remain unable to carry out country visits despite longstanding requests for access due to the government's refusal to issue the required invitations.<sup>162</sup>

### Government Repression of Political Dissent

74. The Turkmen government is notorious for its repression of political dissent. According to Amnesty International, since Turkmenistan gained independence in 1991, "the authorities ... have subjected

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<sup>155</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 46; Exhibit 86: Freedom Now, "Campaigns: Annakurban Amanklychev and Sapardurdy Khadzhiyev Turkmenistan", available at <http://www.freedom-now.org/campaign/annakurban-amanklychev-and-sapardurdy-khadzhiyev/>.

<sup>156</sup> Exhibit 1: Statement of Annadurdy Khadzhiyev, 27 March 2013, para. 49.

<sup>157</sup> E.g. Exhibit 61: *Situation of human rights in Turkmenistan: Report of the Secretary-General*, UN Doc. A/61/489, 3 October 2006, para. 46, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/552/49/PDF/N0655249.pdf?OpenElement>; Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007, available at <http://www.state.gov/j/drl/rls/hrrpt/2006/78845.htm>.

<sup>158</sup> Exhibit 63: Human Rights Watch, "Turkmenistan: Human Rights Watch Submission to the United Nations Committee against Torture," 30 April 2011, available at <http://www.hrw.org/news/2011/04/30/turkmenistan-human-rights-watch-submission-united-nations-committee-against-torture>.

<sup>159</sup> Exhibit 64: *European Parliament resolution on Turkmenistan, including Central Asia*, P5\_TA(2003)0467, 23 October 2003, para. B, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P5-TA-2003-0467+0+DOC+PDF+V0//EN>.

<sup>160</sup> Exhibit 65: Amnesty International, *Keeping up the pressure: Former POC Farid Tukhbatullin's campaign for change in Turkmenistan*, June 2005, available at <http://www.amnesty.org/es/library/asset/ACT60/012/2005/es/f7606ae5-d4d0-11dd-8a23-d58a49c0d652/act600122005en.html> (quoting Anna Sunder-Plassmann, Amnesty International researcher on Turkmenistan).

<sup>161</sup> E.g. Exhibit 25: Human Rights Watch, *World Report 2012: Turkmenistan*, January 2012, p. 1, available at [http://www.hrw.org/sites/default/files/related\\_material/turkmenistan\\_2012\\_0.pdf](http://www.hrw.org/sites/default/files/related_material/turkmenistan_2012_0.pdf); Exhibit 26: Amnesty International, *Annual Report 2012 – Turkmenistan*, available at <http://www.amnesty.org/en/region/turkmenistan/report-2012>; Exhibit 27: United States Department of State, *2011 Country Reports on Human Rights Practices – Turkmenistan*, 24 May 2012, available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=publisher&docid=4fc75a538&skip=0&publisher=USDOS&query=si=turkmenistan&searchin=title&display=10&sort=date>.

<sup>162</sup> Exhibit 66: Human Rights Watch, "Central Asia: Overview of Key Human Rights Concerns and Recommendations", 15 November 2012, available at <http://www.hrw.org/node/111629>. A visit in September 2008 by the UN special rapporteur on freedom of religion was the first, and only, UN special rapporteur to visit the country.

political opponents to several waves of repression”, as a result of which political opponents have been forced into exile, placed under house arrest, arbitrarily detained, imprisoned following unfair trials, and tortured or otherwise ill-treated by police and officers of the Ministry of National Security. Some who were released had to “publicly repent” on television, “promising not to engage in political activities and ... swear an oath of loyalty to the President.” Many who remained in the country were under close surveillance.<sup>163</sup>

75. In 1999, Turkmenistan’s human rights situation worsened. Before parliamentary elections were held that December (in which the President pre-approved all candidates), Turkmen authorities arrested government critics planning to run for office, reported the death in custody of a political prisoner, and increased pressure on exiled dissidents, political and religious prisoners via attacks on family members that included dismissal from their jobs, exclusion from institutions of higher learning, banishment to internal exile, and confiscation of their homes, businesses and other property. Presidential terms were also removed, effectively designating then-President Niyazov as Turkmenistan’s President for life.<sup>164</sup>
76. In November 2002, an alleged attempt on President Niyazov’s life provoked a new wave of repression. Trials of the suspected assassins were closed, and the suspects were held incommunicado and not granted counsel of their choice. In some cases defence counsel had little or no notice prior to the beginning of hearings. “Confessions” by some defendants were broadcast on television. Reports suggested that these “confessions” were scripted and likely the result of torture and mind-altering drugs administered in custody.<sup>165</sup> Human Rights Watch reported that the alleged assassination attempt also provoked a wave of arrests and secret trials of a number of former ministers, heads of provincial administrations, and other former officials suspected of disloyalty.<sup>166</sup>
77. From January to June 2006, and the arrest of Ms. Muradova and her co-defendants, the “clampdown on dissent intensified” with authorities portraying human rights defenders’ work as “treason” and “espionage”.<sup>167</sup> That year, the UN General Assembly expressed grave concern for the “persistence of a government policy based on the repression of all political opposition activities” and the “continuing abuse of the legal system through arbitrary detentions, imprisonment and surveillance of persons who try to exercise their freedom of expression, assembly and association, and harassment of their families”.<sup>168</sup> The Secretary General also described that the “severe repression faced by human rights defenders in Turkmenistan” included “intimidation, harassment, constant surveillance, arbitrary arrests, imprisonment and ill-treatment, reprisals against relatives

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<sup>163</sup> Exhibit 67: Amnesty International, *Turkmenistan: The clampdown on dissent and religious freedom continues*, 2 May 2005, p. 13, available at <http://www.amnesty.org/en/library/info/EUR61/003/2005/en>.

<sup>164</sup> Exhibit 28: Human Rights Watch, “Democratization and Human Rights in Turkmenistan: Commission on Security and Cooperation in Europe of the United States House of Representatives Hearing”, 21 March 2000.

<sup>165</sup> Exhibit 68: Human Rights Watch, *Human Rights Reform in Turkmenistan: Rhetoric or Reality?*, November 2007, p. 16, available at <http://www.hrw.org/legacy/backgrounder/eca/turkmenistan1107/turkmenistan1107web.pdf>;

Exhibit 69: OSCE, *OSCE Rapporteur’s Report on Turkmenistan*, 12 March 2003, p. 3, 23, available at <http://www.osce.org/odihr/18372>.

<sup>166</sup> Exhibit 70: Human Rights Watch, “Essential Background: Overview of Human Rights in Turkmenistan”, in *World Report 2005*, 13 January 2005, available at <http://www.hrw.org/legacy/english/docs/2005/01/13/turkme9896.htm>.

<sup>167</sup> Exhibit 71: Amnesty International, *Europe and Central Asia: Summary of Amnesty International’s Concerns in the Region, January – June 2006*, December 2006, p. 93, available at <http://www.amnesty.org/en/library/info/EUR01/007/2006/en>.

<sup>168</sup> Exhibit 72: *Situation of human rights in Turkmenistan*, UN Doc. A/RES/60/172, 9 March 2006, para. 2(a)-(b), available at <http://www.unhcr.org/refworld/publisher.UNGA.TKM.4459bfb20.0.html>.

and restrictions on their rights to freedom of movement.”<sup>169</sup> Persecution of political dissidents’ family members has included harassment, arbitrary detention and dismissal from their workplaces.<sup>170</sup>

78. These practices continue today: the Turkmen government still does not tolerate any criticism, and threatens, harasses or imprisons those who question its policies.<sup>171</sup> In their joint submission for Turkmenistan’s upcoming 2013 UPR, Human Rights Watch, Freedom Now and the Turkmen Initiative for Human Rights stated that the “threat of government repression in retribution for any criticism of government policies and practices is so immediate and credible that independent human rights activists and journalists cannot work openly.”<sup>172</sup>

#### Government Control of Media

79. According to Human Rights Watch, the government has “absolute control over information” in Turkmenistan.<sup>173</sup> This includes tight control of the media.<sup>174</sup> In 2006, the Committee to Protect Journalists described Turkmenistan as “one of the world’s most closed societies”,<sup>175</sup> and the UN General Assembly expressed grave concern regarding the:

“complete control of the media by the Government of Turkmenistan, its censorship of all newspapers and access to the Internet and intolerance of independent criticism of government policy, as well as further restrictions on the freedom of expression and opinion ... and prohibition of all contact between local journalists and foreigners without the express consent of the Government.”<sup>176</sup>

80. In particular, President Niyazov banned libraries and foreign publications, and the government owned all domestic media, appointed editors, approved news content prior to publication, and ordered television anchors to swear allegiance to the President during broadcasts.<sup>177</sup> As Ms. Begmedova has stated, President Niyazov was “trying to crush every form of alternative thought”<sup>178</sup>.
81. This control and repression has included persecution of RFE/RL journalists. RFE/RL was regarded as the “only independent source of news and information in Turkmenistan.”<sup>179</sup> As such, Turkmen authorities have used harassment, threats, surveillance, arbitrary detention, beatings, torture, and

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<sup>169</sup> Exhibit 61: *Situation of human rights in Turkmenistan: Report of the Secretary-General*, UN Doc. A/61/489, 3 October 2006, para. 24.

<sup>170</sup> Exhibit 67: Amnesty International, *Turkmenistan: The clampdown on dissent and religious freedom continues*, 2 May 2005, p. 1; Exhibit 73: Amnesty International, *Turkmenistan: No effective human rights reform*, 23 June 2008, p. 29, available at <http://www.amnesty.org/en/library/info/EUR61/004/2008/en>; Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007.

<sup>171</sup> Exhibit 19: Human Rights Watch, Freedom Now, and the Turkmen Initiative for Human Rights, “Turkmenistan Universal Periodic Review Submission”, 5 October 2012.

<sup>172</sup> Exhibit 19: Human Rights Watch, Freedom Now, and the Turkmen Initiative for Human Rights, “Turkmenistan Universal Periodic Review Submission”, 5 October 2012; Exhibit 23: FIDH, *Alternative Report on the Human Rights Situation in Turkmenistan for the Universal Periodic Review*, 2008, at p. 2-3.

<sup>173</sup> Exhibit 33: Committee to Protect Journalists, “Attacks on the Press 2006: Turkmenistan”, 5 February 2007.

<sup>174</sup> Exhibit 67: Amnesty International, *Turkmenistan: The clampdown on dissent and religious freedom continues*, 2 May 2005, p. 1, 24.

<sup>175</sup> Exhibit 3: Committee to Protect Journalists, “Radio journalist arrested without charge or explanation”, 21 June 2006.

<sup>176</sup> Exhibit 72: *Situation of human rights in Turkmenistan*, UN Doc. A/RES/60/172, 9 March 2006, para. 2(e).

<sup>177</sup> Exhibit 33: Committee to Protect Journalists, “Attacks on the Press 2006: Turkmenistan”, 5 February 2007.

<sup>178</sup> Exhibit 3: Committee to Protect Journalists, “Radio journalist arrested without charge or explanation”, 21 June 2006.

<sup>179</sup> Exhibit 33: Committee to Protect Journalists, “Attacks on the Press 2006: Turkmenistan”, 5 February 2007.

targeting of family members and friends to silence RFE/RL journalists and those who cooperate with it.<sup>180</sup> In 2006, most RFE/RL correspondents used pseudonyms to avoid harassment.<sup>181</sup>

82. In one example, an RFE/RL journalist was detained by Turkmen secret service officers in September 2003 and held incommunicado for several days. He was forced to sign an agreement to collaborate with the secret service and threatened with long-term imprisonment unless he gave up his work as a journalist. In November 2003, he was abducted, beaten and abandoned at a cemetery by two assailants, one of whom was an official of the Ministry of National Security. In the following months, his telephone line was frequently disconnected, he received death threats, his wife and son were dismissed from their jobs, and authorities threatened to confiscate his home. In 2004 he fled to the US.<sup>182</sup>
83. The Turkmen government's control of the media persists today.<sup>183</sup> It continues to deny that it has ever put any pressure on the press.<sup>184</sup> However, with reference to Article 19 of the ICCPR, this Committee recently expressed concern "at reports of the harassment and intimidation of journalists and human rights defenders . . . [and] allegations that the State party monitors the use of the Internet and blocks some websites."<sup>185</sup> Turkmenistan also continues to target RFE/RL correspondents, interrogating them about their work and "recommending" ending their activities, preventing correspondents from traveling abroad, cutting off correspondents' phone lines, keeping them under constant surveillance, forcing them into psychiatric detention, and harassing and intimidating their relatives.<sup>186</sup> For example, in 2009 Turkmen intelligence officers threatened RFE/RL journalist Dovletmyrat Yazkuliyeu with reprisals if he did not stop working for RFE/RL, and in 2011, he was convicted of false charges of inciting suicide and sentenced to five years imprisonment<sup>187</sup> (he was released in October of the same year under presidential prison amnesty).<sup>188</sup>

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<sup>180</sup> Exhibit 67: Amnesty International, *Turkmenistan: The clampdown on dissent and religious freedom continues*, 2 May 2005, p. 24; Exhibit 3: Committee to Protect Journalists, "Radio journalist arrested without charge or explanation", 21 June 2006; Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007; Exhibit 23: FIDH, *Alternative Report on the Human Rights Situation in Turkmenistan for the Universal Periodic Review*, 2008, p. 5.

<sup>181</sup> Exhibit 3: Committee to Protect Journalists, "Radio journalist arrested without charge or explanation", 21 June 2006.

<sup>182</sup> Exhibit 74: Amnesty International, *Europe and Central Asia: Concerns in Europe and Central Asia: July - December 2003*, 30 April 2004, p. 70, available at <http://www.amnesty.org/en/library/info/EUR01/001/2004/en>; Exhibit 67: Amnesty International, *Turkmenistan: The clampdown on dissent and religious freedom continues*, 2 May 2005, p. 25-26. For another example, see Exhibit 75: Reporters sans Frontières, "Two radio journalists freed in exchange for stopping work", 20 March 2006, available at <http://en.rsfs.org/turkmenistan-two-radio-journalists-freed-in-20-03-2006,16745.html> (two RFE/RL journalists were released from prison with light sentences for "hooliganism" after they signed a promise to stop working for the radio station).

<sup>183</sup> E.g. Exhibit 25: Human Rights Watch, *World Report 2012: Turkmenistan*, January 2012, p. 1.

<sup>184</sup> Exhibit 76: Committee to Protect Journalists, "Attacks on the Press 2007: Turkmenistan", 5 February 2008, available at <http://cpj.org/2008/02/attacks-on-the-press-2007-turkmenistan.php>.

<sup>185</sup> Exhibit 78: UNHRC, Concluding observations of the Human Rights Committee: Turkmenistan, UN Doc. CCPR/C/TKM/CO/1, 19 April 2012, para. 18, available at <http://daccess-ods.un.org/TMP/957798.287272453.html>.

<sup>186</sup> Exhibit 77: Committee to Protect Journalists, "Attacks on the Press 2008: Turkmenistan", 10 February 2009, available at <http://cpj.org/2009/02/attacks-on-the-press-in-2008-turkmenistan.php>; Exhibit 73: Amnesty International, *Turkmenistan: No effective human rights reform*, 23 June 2008, p. 28.

<sup>187</sup> Exhibit 79: Reporters sans Frontières, "RFE/RL provincial correspondents harassed and threatened by intelligence officers", 8 January 2009, available at <http://en.rsfs.org/turkmenistan-rfe-rl-provincial-correspondents-08-01-2009,29920.html>; Exhibit 80: Reporters sans Frontières, "Five-year sentence for RFE/RL correspondent", 5 October 2011, available at <http://en.rsfs.org/turkmenistan-rfe-rl-correspondent-on-trial-in-05-10-2011,41119.html>.

<sup>188</sup> Exhibit 25: Human Rights Watch, *World Report 2012: Turkmenistan*, January 2012, p. 3.

### Torture by the Turkmen Authorities and Deaths in Custody

84. The UN General Assembly,<sup>189</sup> the UN Secretary General,<sup>190</sup> the UN Committee on the Rights of the Child,<sup>191</sup> the US Department of State,<sup>192</sup> and Human Rights Watch<sup>193</sup> have reported that the use of torture and ill-treatment was widespread in Turkmenistan in 2006. It was particularly used at the moment of arrest and during pre-trial detention, both to extract confessions or information and as punishment after the confession.<sup>194</sup> When defendants raised allegations of torture at trial, courts typically ignored them.<sup>195</sup>
85. Torture was facilitated by the “closed” nature of Turkmenistan’s prisons. Families are typically not allowed to visit their relatives in prison, and no mechanism independently monitors places of detention.<sup>196</sup> Though a delegation of the International Committee of the Red Cross (ICRC) was permitted to visit one prison in March 2012, the ICRC does not have the systematic and unfettered access necessary to carry out its core mandate.<sup>197</sup> No other international agency – governmental or non-governmental – has had access to detention facilities.<sup>198</sup>
86. These practices persisted after 2006.<sup>199</sup> In June 2011, the Committee against Torture highlighted on-going use of torture to extract confessions from detainees, physical abuse and psychological pressures by prison staff, and forced confessions as evidence in court.<sup>200</sup> In 2012, the Turkmenistan Independent Lawyers Association reported that inmates were subjected to physical abuse and psychological pressure that included forcing prisoners to stand in line for hours on end, beatings, electrocution, rape and deprivation of sleep and food.<sup>201</sup> In April 2012, with reference to Article 7

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<sup>189</sup> Exhibit 72: *Situation of human rights in Turkmenistan*, UN Doc. A/RES/60/172, 9 March 2006, para. 2(c).

<sup>190</sup> Exhibit 61: *Situation of human rights in Turkmenistan: Report of the Secretary-General*, UN Doc. A/61/489, 3 October 2006, para. 40 (citing Exhibit 60: Committee on the Rights of the Child, *Concluding observations: Turkmenistan*, UN Doc. CRC/C/TKM/CO/1, 2 June 2006, available at [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/dfc43af483155c99c125719a00653527/\\$FILE/G0642491.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/dfc43af483155c99c125719a00653527/$FILE/G0642491.pdf)).

<sup>191</sup> Exhibit 60: Committee on the Rights of the Child, *Concluding observations: Turkmenistan*, UN Doc. CRC/C/TKM/CO/1, 2 June 2006, para. 36.

<sup>192</sup> Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007.

<sup>193</sup> Exhibit 63: Human Rights Watch, “Turkmenistan: Human Rights Watch Submission to the United Nations Committee against Torture,” 30 April 2011.

<sup>194</sup> Exhibit 60: Committee on the Rights of the Child, *Concluding observations: Turkmenistan*, UN Doc. CRC/C/TKM/CO/1, 2 June 2006, para. 36.

<sup>195</sup> Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007.

<sup>196</sup> Exhibit 81: International Helsinki Federation for Human Rights, *Human Rights in the OSCE Region: Europe, Central Asia and North America: Report 2006 (Events of 2005)*, 2006, p. 447, available at [http://web.archive.org/web/20070315141917/http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4255](http://web.archive.org/web/20070315141917/http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4255).

<sup>197</sup> Exhibit 66: Human Rights Watch, “Central Asia: Overview of Key Human Rights Concerns and Recommendations”, 15 November 2012.

<sup>198</sup> Exhibit 66: Human Rights Watch, “Central Asia: Overview of Key Human Rights Concerns and Recommendations”, 15 November 2012.

<sup>199</sup> Exhibit 82: United States Department of State, *2010 Country Reports on Human Rights Practices: Turkmenistan*, 8 April 2011, p. 1, available at <http://www.state.gov/j/drl/rls/hrrpt/2010/sca/154488.htm>.

<sup>200</sup> Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, paras. 6, 18, 20.

<sup>201</sup> Exhibit 57: International Partnership for Human Rights, “Review of Turkmenistan under the International Covenant on Civil and Political Rights,” 30 January 2012, p. 4.

of the ICCPR, this Committee expressed concern at “increased reports of torture and ill-treatment in places of detention where it is often used to extract confessions from accused persons”.<sup>202</sup>

87. In several judgments, the European Court of Human Rights (ECtHR) has found that *any* criminal defendant in Turkmenistan faces a high risk of torture.<sup>203</sup> For example, in *Soldatenko v. Ukraine*, the ECtHR held that, as of 2007, “any criminal suspect held in custody counter [*sic*] a serious risk of being subjected to torture or inhumane or degrading treatment both to extract confessions and to punish for being a criminal”, and that “the mere fact of being detained as a criminal suspect” provides sufficient grounds to fear that a person will be “subjected to treatment contrary to Article 3 of the [European] Convention [on Human Rights].”<sup>204</sup> The ECtHR based its finding in part on the US Department of State’s 2006 report on human rights practices in Turkmenistan and the 2006 report of the UN Secretary General on the human rights situation in Turkmenistan (cited above), noting “the authority and reputation of the authors of these reports, the seriousness of the investigations by means of which they were compiled, the fact that on points in question their conclusions are consistent with each other and corroborated in substance by other sources”.<sup>205</sup> In *Irina Kolesnik v. Russia*, the ECtHR found that the risk of custodial torture remained the same in 2010.<sup>206</sup>
88. Additionally, reports indicate that deaths in custody are also a chronic problem in Turkmenistan. Little information is available about the prevalence of deaths in custody in Turkmenistan in 2006 specifically; the US Department of State reported only that “families who have not heard news of imprisoned family members for some time frequently speculated that they may have died in prison.”<sup>207</sup> More recently, the Committee against Torture expressed deep concern about “numerous and consistent reports on a number of deaths in custody and on the alleged restriction on independent forensic examination into the cases of such deaths”, mentioning in particular Ms. Muradova’s death in custody.<sup>208</sup>

#### Failure to Investigate Government Abuses

89. While the Turkmen Constitution prohibits torture and ill-treatment (article 23), “torture” is not defined in the country’s legislation and is not criminalized.<sup>209</sup> The Committee against Torture recently stated that allegations of torture and ill-treatment by State officers “are seldom investigated and prosecuted, and that there appears to be a climate of impunity resulting in the lack of meaningful disciplinary action or criminal prosecution against persons of authority”. It reported that “no official has been prosecuted for having committed torture and that, over the last 10 years, only

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<sup>202</sup> Exhibit 78: UNHRC, Concluding observations of the Human Rights Committee: Turkmenistan, UN Doc. CCPR/C/TKM/CO/1, 19 April 2012, para. 9.

<sup>203</sup> *Ryabikin v. Russia*, ECtHR, Judgment of 19 June 2008; *Soldatenko v. Ukraine*, ECtHR, Judgment of 23 October 2008; *Kolesnik v. Russia*, ECtHR, Judgment of 17 June 2010.

<sup>204</sup> *Soldatenko v. Ukraine*, ECtHR, Judgment of 23 October 2008, para. 72.

<sup>205</sup> *Soldatenko v. Ukraine*, ECtHR, Judgment of 23 October 2008, para. 71.

<sup>206</sup> *Kolesnik v. Russia*, ECtHR, Judgment of 17 June 2010, paras. 54-58, 68-69.

<sup>207</sup> Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007.

<sup>208</sup> Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 16, available at <http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.TKM.CO.1.pdf>.

<sup>209</sup> Exhibit 57: International Partnership for Human Rights, “Review of Turkmenistan under the International Covenant on Civil and Political Rights,” 30 January 2012, p.13.

four law enforcement officers have been charged with the less serious offense of ‘exceeding the limits of authorities’ under ... the Criminal Code.”<sup>210</sup>

90. Turkmenistan lacks the infrastructure to meaningfully investigate or prosecute government abuses. As recently as April 2012, this Committee expressed concern about “the lack of an independent body to investigate abuse by law enforcement officers” in Turkmenistan.<sup>211</sup> The Committee against Torture as well as Human Rights Watch and other NGOs have noted the same, remarking on the President’s tight control of Turkmenistan’s judiciary and the agencies established to address human rights issues and citizen complaints about law enforcement agencies.<sup>212</sup> Turkmenistan has a National Institute for Democracy and Human Rights that can receive complaints from citizens, but as highlighted by the UN Committee on the Rights of the Child and others, it is ineffective, lacks independence, and has very limited ability to obtain redress for victims.<sup>213</sup> This Committee (in reference to Article 2 of the ICCPR)<sup>214</sup> and the Committee against Torture<sup>215</sup> have also expressed concern that the Institute is part of the President’s office and is therefore not independent.
91. Additionally, although Turkmen President Gurbanguly Berdymukhamedov created the “President’s Commission to Investigate Citizens’ Complaints and Allegations of Unlawful Actions by Agencies of Law Enforcement” shortly after he took office in 2007, the Fédération Internationale des Ligues des Droits de l’Homme (FIDH) indicates that this commission has not punished any government employees, and complaints were sent to those agencies and officials allegedly responsible for the acts complained of. Though the Commission received about 1000 complaints in the first three months of 2007, the flow of complaints sharply decreased as citizens realized that it would not have any effect.<sup>216</sup>

#### Lack of Fair Trial Rights

92. Turkmenistan’s judicial system notoriously lacks independence<sup>217</sup> and is widely corrupt.<sup>218</sup> Since before 2006, the President has controlled the judiciary, holding nearly unchecked power to appoint

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<sup>210</sup> Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 11.

<sup>211</sup> Exhibit 59: UNHRC, *Advance Unedited Version – Consideration of reports submitted by States parties under article 40 of the Covenant – Concluding observations of the Human Rights Committee*, [no UN Doc. number or date], para. 9.

<sup>212</sup> Exhibit 63: Human Rights Watch, “Turkmenistan: Human Rights Watch Submission to the United Nations Committee against Torture,” 30 April 2011; Exhibit 81: International Helsinki Federation for Human Rights, *Human Rights in the OSCE Region: Europe, Central Asia and North America: Report 2006 (Events of 2005)*, 2006, p. 444, 446; Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 11.

<sup>213</sup> Exhibit 60: Committee on the Rights of the Child, *Concluding observations: Turkmenistan*, UN Doc. CRC/C/TKM/CO/1, 2 June 2006, para. 11.

<sup>214</sup> Exhibit 78: UNHRC, Concluding observations of the Human Rights Committee: Turkmenistan, UN Doc. CCPR/C/TKM/CO/1, 19 April 2012, para. 7.

<sup>215</sup> Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 12.

<sup>216</sup> Exhibit 83: FIDH, Turkmen Initiative for Human Rights and Turkmenistan’s Independent Lawyer Association, *Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment: Turkmenistan – Alternative NGO report to the UN Committee against Torture (CAT)*, 2011, p. 16, available at [http://fidh.org/IMG/pdf/CAT\\_Turkmenistan\\_alternative\\_report\\_TIHR\\_-\\_ILA\\_-\\_FIDH\\_.pdf](http://fidh.org/IMG/pdf/CAT_Turkmenistan_alternative_report_TIHR_-_ILA_-_FIDH_.pdf).

<sup>217</sup> Exhibit 61: *Situation of human rights in Turkmenistan: Report of the Secretary-General*, UN Doc. A/61/489, 3 October 2006, paras. 43, 466.



and dismiss judges.<sup>219</sup> Accused persons' fair trial rights are regularly violated.<sup>220</sup> The US Department of State reported that in 2006 defendants were denied the right to confront or question witnesses against them, to access government evidence against them, to be presumed innocent, and to have a public trial.<sup>221</sup>

93. Turkmenistan has not improved these conditions. For example, FIDH, Turkmen Initiative for Human Rights and Turkmenistan's Independent Lawyer Association described in 2011 that due process violations included denial of public trials, access to defence attorneys, and information about charges in a language detainees can read or speak.<sup>222</sup> In June 2011, the Committee against Torture expressed serious concern about reports that human rights defenders faced arrest on criminal charges in retaliation for their work, and had trials in which "numerous due process violations" were reported.<sup>223</sup> It also expressed concern over "a number of persons who have been arrested and sentenced at closed trials without proper defence and imprisoned incommunicado".<sup>224</sup> In April 2012, this Committee also expressed concern about increasing reports that "judges continue to admit as evidence testimony obtained under torture" with reference to Articles 2 and 14 of the ICCPR.<sup>225</sup> Other sources describe that "closed trials are the rule rather than the exception", and that a large number of criminal cases are retaliation for political activity.<sup>226</sup>

## VII. ADMISSIBILITY

94. This petition satisfies the requirements for admissibility under Article 5 of the first Optional Protocol to the ICCPR because (A) the violations fall within the jurisdiction of the Committee, (B)

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<sup>218</sup> Exhibit 78: UNHRC, Concluding observations of the Human Rights Committee: Turkmenistan, UN Doc. CCPR/C/TKM/CO/1, 19 April 2012, para. 13.

<sup>219</sup> Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007; Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc.

CAT/C/TKM/CO/1, 15 June 2011, para. 10; Exhibit 78: UNHRC, Concluding observations of the Human Rights Committee: Turkmenistan, UN Doc. CCPR/C/TKM/CO/1, 19 April 2012, para. 13; Exhibit 83: FIDH, Turkmen Initiative for Human Rights and Turkmenistan's Independent Lawyer Association, *Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment: Turkmenistan – Alternative NGO report to the UN Committee against Torture (CAT)*, 2011, p. 16.

<sup>220</sup> Exhibit 67: Amnesty International, *Turkmenistan: The clampdown on dissent and religious freedom continues*, 2 May 2005, p. 7.

<sup>221</sup> Exhibit 62: United States Department of State, 2006 Country Reports on Human Rights Practices: Turkmenistan, 6 March 2007.

<sup>222</sup> Exhibit 83: FIDH, Turkmen Initiative for Human Rights and Turkmenistan's Independent Lawyer Association, *Compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment: Turkmenistan – Alternative NGO report to the UN Committee against Torture (CAT)*, 2011, p. 16.

<sup>223</sup> Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 13.

<sup>224</sup> Exhibit 55: Committee against Torture, Consideration of reports submitted by States parties under article 19 of the Convention – Concluding observations of the Committee against Torture, UN Doc. CAT/C/TKM/CO/1, 15 June 2011, para. 15.

<sup>225</sup> Exhibit 78: UNHRC, Concluding observations of the Human Rights Committee: Turkmenistan, UN Doc. CCPR/C/TKM/CO/1, 19 April 2012, para. 14.

<sup>226</sup> Exhibit 24: Norwegian Helsinki Committee, "Submission from the Norwegian Helsinki Committee: Universal Periodic Review of Turkmenistan", October 2012, available at <http://nhc.no/filestore/Dokumenter/FN/TurkmenistanUPR20122.pdf>.

the Author has standing to bring the claim on behalf of Ms. Muradova, his deceased sister, (C) the violations have not been submitted to any other international forum, (D) no effective domestic remedy was available to the Author in Turkmenistan, and (E) the timing of the Communication does not constitute an abuse of the right of submission.

#### **A. Jurisdiction**

95. Turkmenistan acceded to the ICCPR and the first Optional Protocol to the ICCPR on 1 May 1997. The violations that are the subject of this communication commenced in June 2006. This communication therefore falls within the jurisdiction of the Committee.

#### **B. Victim Status**

96. The Author brings this claim on behalf of his deceased sister, Ms. Muradova. As this Committee has previously accepted communications from close family members of victims, including siblings,<sup>227</sup> it is appropriate for the Author to bring this claim about Ms. Muradova's ill-treatment and death.

#### **C. No Other International Complaint**

97. No complaint has been submitted to any other procedure of international investigation or settlement regarding the arbitrary arrest, unfair trial, torture and death of Ms. Muradova and the lack of subsequent investigation. This communication therefore satisfies the admissibility requirement in Article 5(2)(a) of the first Optional Protocol to the ICCPR.

#### **D. Exhaustion of Domestic Remedies**

98. The Turkmen government persecuted the Author and his wife as part of the systematic repression of former government officials who had expressed dissent. As a result, the Author lives in exile and does not have access to government bodies in Turkmenistan. Moreover, the government harassed Ms. Muradova's children because of the human rights activities of the Author's family, and in response to their attempts to spread information about Ms. Muradova's mistreatment and death. Thus, the Author cannot access remedies in Turkmenistan without risking further harm to himself, or to Ms. Muradova's children in Turkmenistan. And, even if the Author could safely access Turkmen domestic remedies, the Turkmen government's dismissive attitude towards Ms. Muradova's case – despite significant international pressure to examine it – shows that it would not provide effective redress. Under these circumstances, the Author is not required to exhaust domestic remedies before submitting this complaint because (1) no remedies were available to the Author, as he was in exile and it would have been too dangerous to file a complaint in any event, and (2) any remedies would have been ineffective.

#### The Turkmen Authorities Rendered Remedies Unavailable

99. Because the Author is exiled and does not have access to Turkmen courts, and because the Author and Ms. Muradova's children would risk further repression by the Turkmen government if they pursue domestic remedies in Turkmenistan for Ms. Muradova's mistreatment and death, domestic remedies in Turkmenistan are unavailable to the Author.

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<sup>227</sup> E.g. *E. M. v. Colombia*, UNHRC, Views of 21 March 1991, UN Doc. CCPR/C/41/D/214/1986; *Sahadeo v. Republic of Guyana*, UNHRC, Views of 1 November 2001, UN Doc. CCPR/C/73/D/728/1996.

*Legal Standards: Risk of Danger to the Applicant*

100. An applicant is required to exhaust those domestic remedies that are available and effective.<sup>228</sup> However, this Committee does not require applicants to exhaust domestic remedies where doing so would place the applicant, or their family, in danger.<sup>229</sup> This has in particular been applied in situations where the applicant has fled the country in which the violations occurred and has been granted refugee status as a result of those violations. The Committee has recently held that:
- “it could not be held against the author that he had not raised these allegations before the State party authorities or courts for fear that this might result in his victimisation and the victimisation of his family. The Committee also considered relevant in this regard that the author had been successful in obtaining refugee status in a third state. Therefore, the Committee accepted the author’s argument that, for him, domestic remedies ... were ineffective and unavailable”.<sup>230</sup>
101. Regional human rights mechanisms similarly recognize that applicants cannot be required to exhaust domestic remedies where doing so would place themselves or their families in danger. Rather, they examine whether the applicant did everything that could reasonably be expected of him or her, in all the circumstances of the case, to exhaust domestic remedies.<sup>231</sup> For example, the ECtHR has excused applicants from having to exhaust domestic remedies, including where there was a risk of reprisals against the applicants or their lawyers if they brought legal proceedings alleging that security forces were responsible for human rights violations.<sup>232</sup>
102. The Inter-American Court has similarly held that a remedy is unavailable “if it presents a danger to those who invoke it”,<sup>233</sup> and clarified that “fear to take the case among the legal community” means that domestic remedies are in practice unavailable.<sup>234</sup> The African Commission on Human and Peoples’ Rights (AfCmHPR) has also ruled that “if the applicant cannot turn to the judiciary of his country because of generalised fear for his life (or even those of his relatives), local remedies would be considered to be unavailable to him”, and that where people in a similar situation to the applicant “have been detained and there was terror and fear for lives in the country” it would be “an affront to common sense and logic to require the complainant to return to his country to exhaust local remedies.”<sup>235</sup>

*It was Too Dangerous for the Author to File any Domestic Claim*

103. In this case, the Turkmen authorities’ persecution of the Author and Ms. Muradova’s family made it too dangerous to invoke any remedies in Turkmenistan. As is discussed above (see paras. 17-19 and 25, above), the Author and his wife Ms. Begmedova fled Turkmenistan in 2001 because of mass repression targeting former government officials such as the Author, and successfully sought refugee status in Bulgaria. The Turkmen authorities continued to persecute them after they fled: the

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<sup>228</sup> “Exhaustion of domestic remedies can be required only to the extent that these remedies are effective and available” – UNHRC, Annual Report 1984, para. 584 (quoted in Moller and de Zayas, *United Nations Human Rights Committee Case Law 1977-2008* (Kehl am Rhein: N.P. Engel Verlag, 2009), p. 112).

<sup>229</sup> *Phillip v. Trinidad and Tobago*, UNHRC, Views of 20 October 1998, CCPR/C/64/D/594/1992, para. 6.4; *Randolph v. Togo*, UNHRC, Views of 15 December 2003, UN Doc. CCPR/C/79/D/910/2000, paras. 2.5, 5.8 and 8.6; *El Alwani v. Libya*, UNHRC, Views of 11 July 2007, UN Doc. CCPR/C/90/D/1295/2004, paras. 3.1 and 5.2.

<sup>230</sup> *Avadanov v. Azerbaijan*, UNHRC, Views of 2 November 2010, UN Doc. CCPR/C/100/D/1633/2007, para. 6.4.

<sup>231</sup> *D.H. and Others v. the Czech Republic* ECtHR [GC], Grand Chamber Judgment of 13 November 2007, paras. 116-22.

<sup>232</sup> *Akdivar and Others v. Turkey*, ECtHR [GC], Grand Chamber Judgment of 30 August 1996, para. 74

<sup>233</sup> *Velasquez Rodriguez v. Honduras*, IACtHR, Judgment of 29 July 1988, para. 66.

<sup>234</sup> Inter-Am Comm HR, Advisory Opinion OC-11/90 of 10 August 1990 on “Exceptions to the Exhaustion of Domestic Remedies”, paras. 32-33 and 41.

<sup>235</sup> *Jawara v. Gambia*, AfCmHPR, Comm. Nos. 147/95 and 149/96 (2000), paras. 35-36.

Author and his wife are barred from lawfully entering the country, the authorities confiscated their property, Turkmenistan twice unsuccessfully sought the Author's extradition from Bulgaria to face false criminal charges, Ms. Begmedova's parents were forcibly relocated and their home confiscated, and the government repeatedly questioned the Author's family about their human rights work. The Author cannot return to Turkmenistan without facing arrest or further harassment, but he cannot access the Turkmen judicial system from Bulgaria. For example, in 2002, when he contacted Turkmen officials investigating the theft case against him and tried to pass a written statement to them through a relative, the officer of the General Department for combating organized crime of the Interior Ministry, Igor Martynov – apparently unaware of the Author's circumstances – advised him only that he should “come back to Ashgabat”.<sup>236</sup> Under these circumstances, domestic remedies related to Ms. Muradova's mistreatment and death are unavailable to the Author, and he should not be required to exhaust them before presenting this communication.

104. Local remedies are also unavailable because they cannot be accessed without endangering Ms. Muradova's children in Turkmenistan. As is discussed above (see paras. 29-31 and 56-58, above), Turkmen authorities persecuted Ms. Muradova's children both because of their attempts to bring international attention to her case, and because of their mere relationship to others pursuing human rights issues in Turkmenistan. Before Ms. Muradova died, Turkmen officials threatened to arrest her children if she did not stop contributing to RFE/RL, and carried out this threat by detaining Ms. Muradova's children shortly after her arrest. They held the children for two weeks, and later her daughters were fired from their jobs. After Ms. Muradova's death, Turkmen officials tried to stop Ms. Muradova's children from disseminating information on her case. They threatened to send Ms. Muradova's children to jail again if they did not stop contacting the Author and foreign media about Ms. Muradova's death. Their phone lines were cut, and they ceased direct contact with the Author and Ms. Begmedova because the Author does not want the government to start abusing them again. The Turkmen government has prohibited them from leaving the country.
105. The danger Ms. Muradova's family faces in seeking redress for her mistreatment and death is common in Turkmenistan. According to Human Rights Watch, families of victims of government mistreatment in Turkmenistan are typically afraid to seek any redress, stating that people “profoundly fear talking about mistreatment they or their relatives have endured at the hands of the authorities out of fear of government retaliation”.<sup>237</sup> Under these circumstances, this Committee should not require the Author to exhaust domestic remedies before bringing this complaint.

#### Further Remedies for Ms. Muradova's Mistreatment and Death Are Ineffective

106. Even if domestic remedies were available to the Author, this Committee should not require the Author to exhaust them because they would be futile and provide no possible prospect of success or redress, given the government's failure to take any action in response to international calls for an investigation.

#### *Legal Standards: Failure of the State to Act on its Own Account*

107. Applicants are only required to exhaust remedies that are effective; they are not required to exhaust remedies that do not offer a reasonable prospect of redress<sup>238</sup> or where there is no reasonable prospect that the remedies would be effective.<sup>239</sup> To determine whether remedies are effective, the ECtHR has stated that a human rights body should examine whether the remedies exist in practice,

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<sup>236</sup> Exhibit 30: Memorial, “Turkmenistan /Russia / Bulgaria: Annadurdy Kadjiev released on bail by the decision of the Bulgarian court”, 1 December 2002.

<sup>237</sup> Exhibit 63: Human Rights Watch, “Turkmenistan: Human Rights Watch Submission to the United Nations Committee against Torture,” 30 April 2011.

<sup>238</sup> *Patiño v. Panama*, UNHRC, Views of 21 October 1994, UN Doc. CCPR/C/52/D/437/1990, para. 5.2.

<sup>239</sup> *Torres Ramirez v. Uruguay*, UNHRC, Views of 8 April 1980, UN Doc. CCPR/C/10/D/4/1977, para. 5.

taking into account the circumstances of the individual case, its legal and political context, and the personal circumstances of the applicant.<sup>240</sup>

108. Where a State is on notice of widespread violations but takes no steps to stop them and in fact continues to facilitate their commission, it is clear that any remedies offered by that State will be ineffective. This Committee has held that in cases of egregious violations of human rights – such as arbitrary killings, detention and torture – by security forces acting with impunity and without regard for the rule of law, any purported remedies would not be effective.<sup>241</sup>
109. This approach is supported by the practice of regional human rights mechanisms.<sup>242</sup> In particular, the ECtHR has held that exhaustion is not required where “national authorities remain[ed] totally passive in the face of serious allegations of misconduct or infliction of harm by State agents, for example where they have failed to undertake investigations or offer assistance”,<sup>243</sup> or where repetition of acts incompatible with the Convention and official tolerance by the State authorities make proceedings futile or ineffective.<sup>244</sup> In cases involving loss of life, the ECtHR has expressly stated that “[t]he authorities must act of their own motion once the matter has come to their attention” and “cannot leave it to the initiative of the next-of-kin either to lodge a formal complaint or to request particular lines of inquiry or investigative procedures”.<sup>245</sup>

*There is No Hope that Domestic Remedies Would be Effective*

110. The Turkmen government’s failure to investigate Ms. Muradova’s mistreatment and death – in spite of significant international attention and calls for an investigation – shows that any domestic remedies in Turkmenistan would be ineffective. As is discussed above (see paras. 64-69, above), NGOs, UN human rights bodies, and foreign governments initially put the Turkmen government on notice of the alleged violations immediately following Ms. Muradova’s death, and called for prompt independent investigations. They have repeatedly renewed these calls. Nevertheless, the Turkmen government has failed to investigate this case. Instead, without presenting any details of an investigation, it has denied any wrongdoing, branded Ms. Muradova a traitor, and years later announced that her death was a “suicide”. Though a government representative recently told this Committee that authorities had investigated her death and that the “appropriate international bodies had been kept well informed”, the government has not produced any further information on this investigation or identified the international bodies that it supposedly informed. The failure to investigate Ms. Muradova’s death is part of a broader pattern in Turkmenistan of failing to investigate abuses by government authorities, described above (see paras. 89-91, above).
111. Under these circumstances, any remedies available in Turkmenistan will be ineffective in this case. It is implausible to think that a complaint from Ms. Muradova’s family members would stand any

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<sup>240</sup> *Akdivar and Others v. Turkey*, ECtHR [GC], Grand Chamber Judgment of 30 August 1996, paras. 68-69; *Khashiyev and Akayeva v. Russia*, ECtHR, Judgment of 24 February 2005, paras. 116-17.

<sup>241</sup> See e.g. *Torres Ramirez v. Uruguay*, UNHRC, Views of 8 April 1980, UN Doc. CCPR/C/10/D/4/1977; *Grille Motta v. Uruguay*, UNHRC, Views of 29 July 1980, UN Doc. CCPR/C/OP/1 at 54 (1984); *Martínez Machado*, UNHRC Views of 4 November 1983, UN Doc. CCPR/C/OP/2 at 108 (1990). See further Joseph, Schultz and Castan, *ICCPR: Cases, Materials and Commentary* (2005), p. 116.

<sup>242</sup> ECtHR, see e.g. *Akdivar and Others v. Turkey*, ECtHR [GC], Grand Chamber Judgment of 30 August 1996, para. 68; *Aksoy v. Turkey*, ECtHR, Judgment of 26 November 1996, paras. 52, 57. AfCmHPR, see e.g. *World Organisation Against Torture and Others v. Zaire*, AfCmHPR, Communications 25/89, 47/90, 56/91 & 100/93 (1995-1996), para. 55; *Amnesty International and Others v. Sudan*, AfCmHPR, Comms. Nos. 48/90, 50/91, 52/91 & 89/93 (1999-2000), para. 33. Inter-American Court, see e.g. *Velasquez Rodriguez v. Honduras*, IACtHR, Judgment of 29 July 1988, para. 99; *Godínez Cruz v. Honduras*, IACtHR, Judgment of 20 January 1989, para. 106.

<sup>243</sup> *Akdivar and Others v. Turkey*, ECtHR [GC], Grand Chamber Judgment of 30 August 1996, para. 68.

<sup>244</sup> *Aksoy v. Turkey*, ECtHR, Judgment of 26 November 1996, paras. 52, 57.

<sup>245</sup> *Nachova and Others v. Bulgaria*, ECtHR [GC], Grand Chamber Judgment of 6 July 2005, para. 111.

objective chance of success where calls from respected international organizations and foreign governments have failed, especially where the government tends to overlook human rights abuses by State agents. Indeed, the Author's attempts to seek a remedy from outside Turkmenistan have failed. The Author used the only means he safely could to try to request the government to investigate Ms. Muradova's case (see paras. 60-63, above): appeals to UN bodies, diplomats and NGOs, a persistent media campaign about Ms. Muradova's case, protests in front of the Turkmenistan embassy in Paris, and letter writing campaigns. Despite these efforts, the Turkmen government has not investigated Ms. Muradova's case, and continues to comment on it in a dismissive way, including before this Committee. Under these circumstances, this Committee should not require the Author to exhaust domestic remedies before submitting this complaint.

#### **E. Timing of Communication**

112. Even though Ms. Muradova was mistreated and killed over five years ago, this communication does not abuse the right of submission under Rule 96(c) of the Rules of Procedure. The Author has sought justice and redress for Ms. Muradova's case since her arrest and death using all means he knew of that were safely available. There is no prejudice to Turkmenistan given the previous attention to this case. Though the government recently claimed to have investigated Ms. Muradova's case, it did not reveal when this alleged investigation occurred, thus obscuring when the five-year time limit should run from. Finally, Turkmenistan's failure to properly investigate Ms. Muradova's death and provide redress is an on-going violation of the Covenant.

#### Legal Standards: Timing of a Communication

113. Rule 96(c) of the Rules of Procedure provides that a communication *may* constitute an abuse of the right of submission when it is submitted after five years from the author's exhaustion of domestic remedies. However, it also explains that such communications may not be an abuse where there are reasons justifying the delay, taking into account all the circumstances. Given that it applies only to communications received by the Committee after 1 January 2012,<sup>246</sup> it does not appear that the Committee has yet applied the new Rule 96(c) in any of its views. However, this rule is closely linked to the Committee's previous analyses of whether there was an "unreasonable delay" in submitting a communication, such that it constituted an abuse of process under Article 3 of the Optional Protocol. Indeed, Rule 96(c) was amended to "define the situations where the delay could constitute an abuse of the right to submit a communication."<sup>247</sup> Therefore, the new Rule 96(c) can be interpreted based on this Committee's previous views on whether a delay in submitting a complaint constitutes an abuse of process.
114. To determine whether a communication was submitted following an "unreasonable delay", this Committee has performed case-specific analyses of the author's reasons for delay.<sup>248</sup> It has admitted a case where, for example, the author waited over six years to file because she "belatedly became aware of this avenue" due to the fact that "the State does not publish any decisions by the Human Rights Committee".<sup>249</sup> This Committee has also admitted cases where the authors submitted communications to this Committee over three years after the European Court of Human Rights

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<sup>246</sup> Exhibit 84: *Report of the Human Rights Committee to the General Assembly, 100th-102nd Sessions*, UN Doc. A/66/40 (Vol. I) (2011), paras. 124-125, available at <http://www.unhcr.org/refworld/pdfid/4ef0a8682.pdf>.

<sup>247</sup> Exhibit 84: *Report of the Human Rights Committee to the General Assembly, 100th-102nd Sessions*, UN Doc. A/66/40 (Vol. I) (2011), para. 124.

<sup>248</sup> *Klain and Klain v. Czech Republic*, UNHRC, Views of 8 December 2011, UN Doc. CCPR/C/103/D/1847/2008, para. 7.5.

<sup>249</sup> *Jünglingová v. The Czech Republic*, UNHRC, Views of 8 December 2011, UN Doc. CCPR/C/103/D/1563/2007, para. 5.2.

rejected similar claims, without explaining the delay.<sup>250</sup> In contrast, the Committee has found cases inadmissible where authors provide no “reasonable explanation justifying the delay”.<sup>251</sup>

#### No Abuse of the Right of Submission

115. Since Ms. Muradova’s initial arrest, the Author and Ms. Begmedova have done all they could to draw attention to Ms. Muradova’s case (see paras. 60-63, above). Because domestic remedies were unavailable to the Author and would have been ineffective, they sought redress through other means: appeals to UN bodies, diplomats and NGOs, a persistent media campaign about Ms. Muradova’s case, and protests and letter writing campaigns. In the Author’s words, they appealed “to every institution [they] could”. Their efforts have not diminished over time; as recently as 2011 they raised Ms. Muradova’s case with the UN Committee against Torture and OSCE. The Author files this communication now as part of his on-going attempts to obtain justice for Ms. Muradova. This communication is not an abuse of the right of submission, and this Committee should accept it.
116. In addition, this Committee should be flexible in assessing the five-year time limit because it is unclear when it should run from. It cannot run from the date of Ms. Muradova’s death, because Turkmen officials have recently claimed that some kind of domestic investigation was conducted. Under normal circumstances, the five-year time limit should begin running from the end of this domestic investigation – the last domestic procedure in relation to Ms. Muradova’s death. However, Turkmen officials have not disclosed any information about the conduct of this alleged investigation, including when it was completed (see para. 68, above, and para. 154, below). Under these circumstances, the Court should flexibly assess whether this communication is timely filed.<sup>252</sup>
117. Admitting this communication at this stage would not prejudice Turkmenistan. The government has been well aware of concerns over her detention, trial and death since they occurred. International organizations’ repeated calls to investigate Ms. Muradova’s case and for redress have consistently focused the government’s attention on it (see paras. 64-69, above). Moreover, the Turkmen government’s comments about Ms. Muradova’s case to this Committee in March 2012 (see para. 68, above) demonstrate that it is still aware of Ms. Muradova’s case – despite its inaction – and is able to respond to the communication.
118. Taking into account all the circumstances of this communication, this Committee should find that the Author’s communication is not an abuse of the right of submission pursuant to Rule 96(c), and is admissible before this Committee.

#### Continuing Violations

119. The Turkmen government’s failure to investigate and provide redress for Ms. Muradova’s torture and death continues to the present. Given that these are continuing violations, they cannot be excluded by the five year time limit in Rule 96(c).
120. This Committee has recognized that the failure to investigate and to provide remedies can be continuing violations, when assessing whether it has jurisdiction over violations that occurred

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<sup>250</sup> *Polackova and Polacek v. Czech Republic*, UNHRC, Views of 24 July 2007, UN Doc. A/62/40, Vol. II, at 374, para. 6.3; *Susser v. Czech Republic*, UNHRC, Views of 25 March 2008, UN Doc. A/63/40, Vol. II, at 318, para. 6.3.

<sup>251</sup> E.g. *Gobin v. Mauritius*, UNHRC, View of 16 July 2001, UN Doc. CCPR/C/72/D/787/1997, para. 6.3.

<sup>252</sup> Compare *Finozhenok, v. Russia*, ECtHR, Decision of 31 May 2011 (in regard to the ECtHR’s comparable six-month time limit for filing submission, the ECtHR has stated that “determination of whether the applicant in a given case has complied with the admissibility criteria will depend on the circumstances of the case and other factors such as the diligence and interest displayed by the applicants as well as the adequacy of the investigation in question” and that “the Court has refrained from indicating a specific period for establishing when an investigation has become ineffective for the purposes of assessing when the six-month period runs from”).

before the Optional Protocol entered into force for the relevant State party.<sup>253</sup> Although this Committee has not yet assessed the principle of continuing violations in relation to Rule 96(c), other human rights courts have applied it in similar contexts. For example, the ECtHR has held that, where an applicant complains about a violation that is on-going, the ECtHR's six-month time limit for submitting cases will not start to run until the breach ceases to have a continuing effect.<sup>254</sup> Similarly, the Inter-American Commission does not bar admissibility based on its six-month rule for submitting cases where the violation is found to be on-going at the time the petition is filed.<sup>255</sup> This Committee should apply similar principles to find that Rule 96(c) does not apply to the Turkmen government's failure to investigate Ms. Muradova's death, punish those responsible, and provide redress to Ms. Muradova's family (see sections VIII.D and VIII.E, below), because these violations continue today.

### VIII. VIOLATIONS OF THE ICCPR

121. Turkmenistan has violated the ICCPR in the following ways:

- A. *Arbitrary Killing*. Ms. Muradova died in the custody of the Turkmen authorities. Injuries found on her corpse indicate that she died as a result of physical violence. The Turkmen government has not investigated how she died, and has provided only implausible and inconsistent explanations for her death. The government is therefore responsible for her arbitrary killing in violation of Article 6(1) of the ICCPR.
- B. *Torture*. While holding her in custody, the Turkmen authorities mistreated Ms. Muradova to punish her for her human rights activism and journalism, and in attempt to compel her to confess to "subversive activities" and false criminal charges. This mistreatment, which eventually killed her, amounts to torture in violation of Article 7 of the ICCPR.
- C. *Lack of Safeguards*. Turkmenistan failed to take measures to protect Ms. Muradova from torture and from the arbitrary deprivation of her life, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(2).
- D. *Failure to Conduct an Effective Investigation*. Turkmenistan failed to investigate Ms. Muradova's torture and death, in violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
- E. *Failure to Provide Redress*. Turkmenistan failed to provide access to effective remedies for the torture and death of Ms. Muradova, in further violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3).
- F. *Failure to Have a Judge Rule on Pre-Trial Detention*. The law in effect when Ms. Muradova was arrested provided for a prosecutor, and not a judge or other impartial officer, to rule on her detention, in violation of Article 9(3) of the ICCPR.
- G. *Violation of Fair Trial Rights*. The Turkmen authorities publicly declared Ms. Muradova's guilt before her trial, denied her effective assistance of a lawyer – including during interrogation, closed her trial to the public, and prevented her from meaningfully appealing her conviction by

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<sup>253</sup> *S.E. v. Argentina*, UNHRC, Views on Admissibility of 4 April 1990, UN Doc. CCPR/C/38/D/275/1988, para. 5.4.

<sup>254</sup> *Jecius v Lithuania*, ECtHR, Judgment, 31 July 2000, para. 44; *Riener v Bulgaria*, ECtHR, Judgment, 23 May 2006, para. 101; *Daróczy v Hungary*, ECtHR, Judgment, 1 July 2008, para. 18.

<sup>255</sup> *Peter Blaine v. Jamaica*, Inter-American Commission on Human Rights, Decision, 17 December 1998, para. 52; *Neville Lewis v. Jamaica*, Inter-American Commission on Human Rights, Decision, 17 December 1998, paras. 51 - 52.



failing to issue a written verdict. This violated her rights under Articles 14(1), (2), (3)(b), (3)(d) and (5) of the ICCPR.

H. *Arbitrary Detention and Freedom of Expression*. The Turkmen authorities arbitrarily detained, tortured and killed Ms. Muradova to silence her journalism and human rights activism, in violation of Articles 9(1) and 19 of the ICCPR.

#### **A. Arbitrary Killing: Article 6(1)**

122. Ms. Muradova was detained by Turkmen authorities in good health, and died in their custody three months later. Her body showed signs of physical abuse, indicating that she died violently. Turkmenistan has not investigated her death, or even provided a plausible explanation for it. Consequently, Turkmenistan is responsible for Ms. Muradova's death pursuant to Article 6(1) of the ICCPR.

#### Legal Standards: the Right to Life

123. Article 6(1) states: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." The Committee has consistently found the right to life to be the "supreme right", which it has stressed "should not be interpreted narrowly."<sup>256</sup> The Committee has described the duty to refrain from arbitrary deprivation of life as "of paramount importance", calling on State parties to "take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces."<sup>257</sup>
124. Where a death occurs in custody, it "should be regarded as *prima facie* a summary or arbitrary execution" unless that presumption can be rebutted by a "thorough, prompt and impartial investigation".<sup>258</sup> This underlying principle applies equally in cases where the State claimed that the death was suicide.<sup>259</sup>
125. The Committee has acknowledged that, where an individual dies in custody, applicants face evidentiary difficulties in proving the precise cause and circumstances of death, "especially considering that the author and the State party do not always have equal access to the evidence and ... frequently the State party alone has access to relevant information."<sup>260</sup> Thus, the Committee has held that, in death in custody cases, "the burden of proof ... cannot rest alone on the author of the communication".<sup>261</sup> As a result, the Committee will generally find a violation of Article 6(1) unless the State conducts an effective and timely investigation that shows otherwise.

#### Violation of the Right to Life

126. It is undisputed that Ms. Muradova died in the custody of Turkmen authorities: they arrested her around 18 June 2006 – in good health – and did not release her before she died three months later (see paras. 27-28, 37 and 44-47, above).
127. Strong evidence indicates that Ms. Muradova did not die naturally, but rather was killed. Most significant is the condition of her corpse. As described above (see paras. 51-54, above), Ms. Muradova had a vertical deep red cut in the middle of her forehead, a one centimetre-broad dark mark around her neck, three small open red wounds on her hand, a swollen and bruised ankle, and a

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<sup>256</sup> UNHRC, General Comment 6: The Right to Life (Art. 6), 1982, para. 1.

<sup>257</sup> *Ibid.*, para. 3.

<sup>258</sup> *Eshonov v. Uzbekistan*, UNHRC, Views of 22 July 2010, UN Doc. CCPR/C/9/D/1225/2003, para. 9.2.

<sup>259</sup> *Dermitt Barbato v. Uruguay*, UNHRC, Views of 21 October 1982, UN Doc. CCPR/C/17/D/84/1981, para. 92.

<sup>260</sup> *Bleier v. Uruguay*, UNHRC, Views of 29 March 1982, UN Doc. CCPR/C/15/D/30/1978, para. 13.3; *Mukong v. Cameroon*, UNHRC, Views of 21 July 1994, UN Doc. CCPR/C/51/D/458/1991, para. 9.2. 29.

<sup>261</sup> *Bleier v. Uruguay*, UNHRC, Views of 29 March 1982, UN Doc. CCPR/C/15/D/30/1978, para. 13.3; *Mukong v. Cameroon*, UNHRC, Views of 21 July 1994, UN Doc. CCPR/C/51/D/458/1991, para. 9.2. 29.

large bruise on one thigh. *Deutsche Welle* reported that the mark on her neck was characteristic of strangling. It also reported that an autopsy – which the Turkmen authorities never disclosed – said she suffered internal bleeding from the liver and left kidney, and that her death was probably caused by blows to the back of the head inflicted seven to ten days before she died. This evidence, together with additional evidence that Ms. Muradova was mistreated during her detention (see paras. 28, 30 and 37-38, above), provides a strong basis from which to conclude that she was killed in detention.

128. In light of this evidence, the burden is on Turkmenistan to provide a proper explanation for Ms. Muradova's death based on a thorough and independent investigation. However, Turkmenistan has refused to conduct such an investigation, has done all that it can to prevent any objective examination, and has failed to provide any plausible or consistent explanation for her death (see section VIII.D, below). Initially, Turkmen authorities refused to give her body to Ms. Muradova's family and told them that she died naturally, without providing any evidence or justification for this conclusion. They did not explain how she received the obvious injuries on her corpse, and they did not produce any autopsy results – even though it was clear from her body that an autopsy had been conducted. Later, in March 2012, Turkmen authorities changed their conclusion about how Ms. Muradova died: they claimed before this Committee that they *had* investigated Ms. Muradova's death and that it was a suicide. However, Turkmenistan provided no evidence to support this new and contradictory claim or to provide any information on this alleged investigation. Rather than investigate her death, the Turkmen authorities have kept the results of her autopsy a secret, have ignored the calls of the international community for an independent or thorough investigation, and have threatened and intimidated her family members when they continued to press for information on the cause of her death.
129. Under these circumstances, Turkmenistan is responsible for the arbitrary killing of Ms. Muradova, in violation of Article 6(1) of the ICCPR.

#### **B. Torture of Ms. Muradova: Article 7**

130. While detaining her virtually without connection to the outside world, Turkmen authorities tortured Ms. Muradova as punishment for her work as a journalist and human rights activist. She told her family at the time that she “could not stand the mistreatment”, and injuries on her corpse – and the fact of her custodial death – confirm that she was physically abused. Turkmenistan has not provided any explanation for these signs of torture. Therefore, this Committee should hold Turkmenistan responsible for Ms. Muradova's torture pursuant to Article 7 of the ICCPR.

#### Legal Standards: Prohibition of Torture

131. The prohibition of torture is absolute. This Committee has made it clear that “article 7 allows of no limitation”.<sup>262</sup> There is no list of acts which do and do not constitute torture or inhuman treatment; rather, the assessment “depends on all the circumstances of the case, such as the duration and manner of the treatment, [and] its physical or mental effects”.<sup>263</sup> In one example, repeated beatings in custody have been found to constitute torture or cruel and inhuman treatment under Article 7, especially where victims are denied medical care for their injuries.<sup>264</sup>
132. As with deaths in custody, when a person is tortured while in custody the state will have total control of access to related evidence. Thus, the burden of proving that a person was tortured cannot

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<sup>262</sup> UNHRC, General Comment 20: Article 7 concerning prohibition of torture and cruel treatment or punishment, 1992, paras. 3, 5.

<sup>263</sup> *Vuolanne v. Finland*, UNHRC, Views of 7 April 1989, UN Doc. CCPR/C/35/D/265/1987, para. 9.2. See also UNHRC, General Comment 20, para. 4.

<sup>264</sup> *Bailey v. Jamaica*, UNHRC Views of 31 March 1993, UN Doc. CCPR/C/47/D/334/1988, para. 9.2 – 9.3; *Linton v. Jamaica*, UNHRC, Views of 22 October 1992, UN Doc. CCPR/C/46/D/255/1987, para. 8.5.

rest on the author of the communication alone.<sup>265</sup> Rather, the burden will shift to the government to provide a satisfactory and plausible explanation for the indicia of torture, supported by evidence.<sup>266</sup>

#### No Plausible Explanation Provided for Signs of Torture

133. The limited evidence available from Ms. Muradova's nearly incommunicado detention demonstrates that the Turkmen authorities tortured her while she was in their custody. When her daughters spoke with her remotely shortly after her arrest, her voice sounded like she might have been drugged or abused; when they saw her a few days after her arrest, she appeared sleep-deprived or drugged and did not recognize them; and she passed a message to her family during her detention that she "could not stand the mistreatment" (see paras. 28, 30, and 37-38, above).
134. In addition, Ms. Muradova's corpse showed numerous injuries (see paras. 51-54, above) that are inconsistent with any legitimate use of force and indicative of torture. She had a deep red cut in the middle of her forehead, and *Deutsche Welle* reported that she probably died as a result of blows to the *back* of the head. She also had a dark mark around her whole neck, which *Deutsche Welle* described as characteristic of strangling. She also had three open, red wounds on one of her hands, and swelling and bruising to the ankle of one of her legs. *Deutsche Welle* also reported that she suffered from internal bleeding of the liver and left kidney. These injuries demonstrate a use of force so focused and severe that is highly unlikely to have a legitimate purpose.
135. It appears that Turkmen authorities mistreated Ms. Muradova to punish her for her work as a human rights activist and journalist, to obtain a false confession, and to incriminate the Author and his wife. As is described below (see paras. 197-202, below), Turkmen authorities harassed and threatened Ms. Muradova about her human rights work before they detained her, senior government officials condemned her as a "traitor" following her arrest, and she was drugged and ill-treated during her detention, partly to force her to confess to her "subversive" human rights activities, and to crimes she did not commit. As is also described above, the Author believes that Ms. Muradova was supposed to "confess" that the Author and his wife incited them to commit crimes, which is consistent with the authorities' previous demands that Ms. Muradova persuade them to end their human rights activities (see paras. 25 and 38, above). The mistreatment of Ms. Muradova is consistent with the widespread pattern of abuse and torture of persons – particularly human rights defenders and journalists – in police custody in Turkmenistan (see paras. 84-88, above).
136. Taken together, the ill-treatment of Ms. Muradova rises to the level of torture. While detained almost without connection to the outside world, Ms. Muradova appears to have been drugged, sleep-deprived, beaten, strangled, and interrogated, with sufficient severity to kill her. Despite this evidence, Turkmenistan has failed to provide a plausible explanation for the indicia of Ms. Muradova's torture. The arguments with regard to the reverse burden of proof at paragraph 128 above are re-iterated with regard to the allegation of torture. The authorities have conducted no proper investigation, and have provided no official explanation at all for her injuries. They have withheld the autopsy report, and the various implausible explanations for her death – that she died of natural causes, or that she committed suicide – do not provide any explanation for the source or cause of injuries that she sustained, such as the deep cut on her forehead or the strangulation marks on her neck.
137. Turkmenistan is therefore responsible for a violation of Article 7 as a result of the torture of Ms. Muradova while in police custody.

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<sup>265</sup> *Bouroual v. Algeria*, UNHRC, Views of 30 March 2006, UN Doc. CCPR/C/86/D/992/2001, para. 9.4; *Bleier v. Uruguay*, UNHRC, Views of 29 March 1982, UN Doc. CCPR/C/15/D/30/1978, para. 2.4, 13.3 and 14.

<sup>266</sup> *Bleier v. Uruguay*, UNHRC, Views of 29 March 1982, UN Doc. CCPR/C/15/D/30/1978, para. 13.3; *Larrosa v. Uruguay*, UNHRC, Views of 29 March 1983, UN Doc. Supp. No. 40 (A/38/40), para. 11.5.

### C. Failure to Safeguard Against Torture and Death: Articles 6(1) and 7 with Article 2(2)

138. In addition to deliberately mistreating Ms. Muradova, Turkmen officials failed to provide Ms. Muradova with access to her lawyer and family members, leaving her vulnerable to the ill-treatment that killed her. Turkmenistan consequently failed to provide adequate safeguards to protect Ms. Muradova from torture or death, in violation of Articles 6(1) and 7 in conjunction with Article 2(2) of the ICCPR.

#### Legal Standards: Safeguards

139. Article 2(2) of the ICCPR requires every State Party “to take the necessary steps to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”<sup>267</sup> General Comment 31 states that the right to life includes a positive duty on the State to put in place safeguards to protect life, as well as the obligation not to arbitrarily deprive a person of it.<sup>268</sup> The Committee has recognized the positive obligation to take adequate measures to protect the right to life in a number of its decisions,<sup>269</sup> and has “reminded [States] of the interrelationship between the positive obligations imposed under article 2 and the need to provide effective remedies in the event of breach under article 2, paragraph 3”.<sup>270</sup>
140. The positive obligation to protect life applies in particular to persons in State custody: “it is incumbent on States to ensure the right to life of detainees ... the State party by arresting and detaining individuals takes the responsibility to care for their life.”<sup>271</sup> The Committee has recognized that prisoners are “particularly vulnerable”,<sup>272</sup> imposing a special responsibility on the State to take adequate and appropriate measures to protect them.<sup>273</sup> Where a State fails to take adequate measures to protect prisoners, they may be responsible for a violation of Article 6(1).<sup>274</sup>
141. The Committee has also emphasized the importance of implementing safeguards to protect detainees from torture and abuse. In General Comment 20, this Committee underlined the importance of adequate safeguards against torture, affirming that, “to guarantee the effective protection of detained persons”, States need to ensure the realization of specific safeguards. These safeguards include the right to have detention registered and notified to a third party and the right to access a lawyer.<sup>275</sup> Other human rights instruments similarly reinforce the importance of safeguards in fulfilling a State’s obligations to prohibit and prevent torture, and that a failure to implement such safeguards is a breach of that obligation.<sup>276</sup>

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<sup>267</sup> ICCPR, Article 2(3).

<sup>268</sup> UNHRC, General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 2004, para. 8.

<sup>269</sup> See e.g. *Dermitt Barbato v. Uruguay*, UNHRC, Views of 21 October 1982, UN Doc. CCPR/C/17/D/84/1981, para. 9.2.

<sup>270</sup> UNHRC, General Comment 31, para. 8.

<sup>271</sup> *Lantsova v. Russia*, UNHRC, Views of 15 April 2002, UN Doc. CCPR/C/74/D/763/1997, para. 9.2; see also *Titiahonjo v. Cameroon*, UNHRC, Views of 13 November 2007, UN Doc. CCPR/C/91/D/1186/2003, para. 6.2.

<sup>272</sup> UNHRC, General Comment 21, Right to Humane Treatment and Respect for Human Dignity, 1992, para. 3.

<sup>273</sup> *Dermitt Barbato v. Uruguay*, UNHRC, Views of 21 October 1982, UN Doc. CCPR/C/17/D/84/1981, para. 9.2. *Bleier v. Uruguay*, UNHRC, Views of 29 March 1982, UN Doc. CCPR/C/15/D/30/1978, paras. 11.2, 13.3.

<sup>274</sup> *Dermitt Barbato v. Uruguay*, UNHRC, Views of 21 October 1982, UN Doc. CCPR/C/17/D/84/1981, para. 9.2. 31.

<sup>275</sup> UNHRC, General Comment 20, para. 11.

<sup>276</sup> See, e.g., Committee against Torture, General Comment 2: Implementation of article 2 by states parties (2007), paras. 8, 13; Economic and Social Council, Standard Minimum Rules for the Treatment of Prisoners, arts. 6, 7, 22-26, 37 44(3), 93, Resolutions 663 C (XXIV) (31 July 1957), 2076 (LXII) (13 May 1977); *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (the Istanbul Principles)*, General Assembly Resolution 55/89, 4 December 2000. See also, Commission on Human

### Failure to Provide Safeguards to Prevent Torture and Homicide

142. Turkmenistan failed to protect Ms. Muradova from being tortured and killed while in police custody. In particular, Turkmen authorities prevented nearly all contact with her lawyer or family, leaving her vulnerable to the authorities' abuse.

#### *Failure to Provide Access to a Lawyer*

143. This Committee has explicitly stated that “[t]he protection of the detainee ... requires that prompt and regular access be given to doctors and lawyers”.<sup>277</sup> The Committee against Torture has specifically found that access to a lawyer is an important safeguard against torture.<sup>278</sup> Similarly, the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment has explained that “[f]rom a preventive point of view, access to a lawyer is an important safeguard against ill-treatment which is a broader concept than providing legal assistance solely for conducting one’s defence.”<sup>279</sup>
144. In this case, it is unclear how many times Ms. Muradova met with her lawyer – if at all. What is clear is that their contact was minimal because of government pressure on her lawyer. As described above (see paras. 34 and 36, above), Ms. Muradova’s lawyer was afraid of taking her case, postponed meeting with her, misled her children about whether he had seen her, and even avoided meeting with her children because of pressure from Turkmen authorities. Ms. Muradova was deprived of access to her lawyer during a period when Turkmen authorities were interrogating her (see para. 174, below), and he may not have been present during her trial (see para. 41, above). There is also no evidence that her lawyer visited her after she was convicted. The lack of access to a lawyer who would effectively represent her throughout her detention allowed the police to torture and kill her, in violation of Articles 6(1) and 7 of the ICCPR.

#### *Failure to Provide Access to Family Members*

145. This Committee has noted that one of the purposes of registering detention is that information regarding the detention of a person be “readily available and accessible to those concerned, including relatives and friends”.<sup>280</sup> The Committee against Torture has listed the right “to inform a relative” as one of the “fundamental legal safeguards” which detainees must be afforded from the moment that they are deprived of their liberty.<sup>281</sup> The UN Special Rapporteur on Torture has also

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Rights Resolution 2003/33, *Torture and Other Cruel, Unusual or Degrading Treatment or Punishment*, UN Doc. E/CN.4/2003/L.11/Add.4 (2003); Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, *Mission to Kazakhstan*, UN Doc. A/HRC/13/39/Add.3, para. 68 (2009); Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, *Addendum: Mission to the Republic of Equatorial Guinea*, UN Doc. A/HRC/13/39/Add.4, para. 76(d) (2010); *see also*, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, *Addendum: Mission to Jamaica*, UN Doc. A/HRC/16/52/Add.3 para. 65 (2010) (noting the lack of a register book at a facility where the Special Rapporteur had serious concerns about the treatment of detainees).

<sup>277</sup> UNHRC, General Comment 20, para. 11.

<sup>278</sup> UNCAT, *G.K. v. Switzerland*, UN Doc. CAT/C/30/D/219/2002, 12 May 2003, para. 6.3.

<sup>279</sup> Report on the Visit of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to the Maldives, of 26 February 2009, UN Doc. CAT/OP/MDV/1, para. 62.

<sup>280</sup> UNHRC, General Comment 20, para. 11.

<sup>281</sup> *Ibid.*

recommended that states “allow for notification of family members from the moment of actual deprivation of liberty.”<sup>282</sup>

146. Here, as is discussed above (see paras. 27-28, above) Turkmen authorities did not inform Ms. Muradova’s family that she had been arrested. Rather, police appeared at her house and asked her to come to the Ashgabat police station for a “conversation.” Ms. Muradova’s family went to the police station to check on her of their own accord. Throughout her incarceration, Ms. Muradova had almost no contact with her family. While she was in pre-trial detention, they were able to exchange a minimal number of messages with her, but they were never allowed to see her (see para. 37, above). They were even excluded from her trial (see para. 41, above). Following her conviction, Turkmen authorities did not tell Ms. Muradova’s family where she was incarcerated; the family only learned through “unofficial channels” from guards at the temporary detention facility that she was held there, and was not transferred to a penal colony following regular post-conviction practice (see para. 44, above). As a result, her family could not visit her. The Turkmen government therefore left Ms. Muradova vulnerable to the torture that caused her death, in violation of Articles 6(1) and 7 together with Article 2(2) of the ICCPR.

#### *Lack of any Oversight of the Detention Facilities*

147. States are obliged to establish an independent body that monitors detention facilities under the ICCPR and the Convention against Torture. This Committee considers that States parties must take “concrete measures” to monitor the treatment of persons deprived of their liberty and ensure “impartial supervision”.<sup>283</sup> This Committee has advocated the creation of an “external and independent body entrusted with the functions of visiting the [facilities] and receiving and investigating complaints emanating from such [facilities]”.<sup>284</sup> The Committee has explained that monitors should be a “competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment”,<sup>285</sup> and shall have “private access to the detainee and inclusion of appropriate medical and forensic expertise”.<sup>286</sup>
148. The Committee against Torture also recommends that States “establish a systematic and independent system to monitor the treatment in practice of persons arrested, detained or imprisoned”.<sup>287</sup> In addition, the Committee against Torture highlighted in its review of Turkmenistan and other countries that access to detention facilities should also be granted to independent governmental and non-government organizations, in particular the International Committee of the Red Cross.<sup>288</sup>
149. As discussed above (see para. 85, above), no mechanism independently monitors places of detention in Turkmenistan, and independent external monitors have not been allowed access. Only the ICRC has been permitted to carry out one prison visit – in March 2012 – but it does not have the access necessary to implement its mandate. No other agency has had access to Turkmenistan’s

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<sup>282</sup> UN Special Rapporteur on Torture, *Report on Mission to Kazakhstan*, UN Doc. A/HRC/13/39/Add.3, para. 81-a.

<sup>283</sup> UNHRC, *General Comment 21, humane treatment of persons deprived of liberty (Art. 10)*, 1992, para. 6.

<sup>284</sup> UNHRC, *Concluding Observations on Namibia (2004)*, UN Doc. CCPR/CO/81/NAM, para. 14

<sup>285</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 29(1), (1988) discussed in UNHRC, *General Comment 21, Replaces general comment 9 concerning humane treatment of persons deprived of liberty (Art. 10)*, 1992, para. 5

<sup>286</sup> *Alzery v Sweden*, UNHRC, Views of 25 October 2006, CCPR/C/88/D/1416/2005, para. 11.5.

<sup>287</sup> UNCAT, *Concluding Observations on Brazil (2001)*, UN Doc. A/56/44/, para. 120(d); UNCAT, *Concluding Observations on Moldova (2003)*, UN Doc. CAT/C/CR/30/7, para. 6(1). See also UNCAT, *General Comment 2, Implementation of article 2 by states parties*, 2008, paras. 8 and 13.

<sup>288</sup> UNCAT, *Concluding Observations on Turkmenistan (2011)*, UN Doc. CAT/C/TKM/CO/1, para. 14(b); UNCAT, *Concluding Observations on Uganda (2005)*, UN Doc. CAT/C/CR/34/UGA, para. 10; UNCAT, *Concluding Observations on Nepal (2005)*, UN Doc. CAT/C/NPL/CO/2, para. 23

detention facilities. Without independent oversight of detention facilities, detainees like Ms. Muradova are vulnerable to ill-treatment. Moreover, lack of oversight has facilitated the secrecy around Ms. Muradova's detention, treatment, and death.

#### **D. Failure to Conduct an Effective Investigation: Articles 6(1) and 7 with Article 2(3)**

150. Turkmenistan has failed to conduct an independent, impartial, thorough, timely, and effective investigation into Ms. Muradova's torture and death, in further violation of Articles 6(1) and 7 in conjunction with Article 2(3) of the ICCPR.

##### Legal Standards: Effective Investigations

151. The obligation to provide an effective remedy for violations of the rights in the ICCPR "is central to the efficacy of article 2, paragraph 3," and "a failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the [ICCPR]."<sup>289</sup> Regarding the right to life, this Committee has held that the State must conduct "a thorough, prompt and impartial investigation" into any death in custody.<sup>290</sup> The failure to do so can constitute a separate violation of Article 6(1) of the ICCPR,<sup>291</sup> and of Article 2(3), which obliges State Parties to "ensure that individuals ... have accessible and effective remedies to vindicate [ICCPR rights]."<sup>292</sup> As to torture, the Committee has explicitly required the investigation of torture and cruel, inhuman or degrading treatment or punishment under Article 7, stating that complaints of torture "must be investigated promptly and impartially by competent authorities so as to make the remedy effective."<sup>293</sup>
152. The key criteria for investigating torture and deaths in custody, as established by this Committee and reiterated by other human rights bodies, are detailed in the *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (the "Istanbul Protocol"),<sup>294</sup> the *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* ("the Minnesota Principles"),<sup>295</sup> and the *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* ("Minnesota Protocol").<sup>296</sup> To be effective, an investigation must meet the following six criteria:
- *Independent and impartial.* Article 2(3) of the ICCPR imposes a "general obligation to investigate allegations of violations ... through independent and impartial bodies."<sup>297</sup> Investigators "shall be independent of the suspected perpetrators and the agency they serve",<sup>298</sup> and this Committee has affirmed that complaints of torture against the police should not be

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<sup>289</sup> UNHRC, General Comment 31, paras. 15 and 16.

<sup>290</sup> *Eshonov v. Uzbekistan*, UNHRC, Views of 22 July 2010, UN Doc. CCPR/C/9/D/1225/2003, para. 9.2.

<sup>291</sup> *Telitsina v. Russia*, UNHRC, Views of 29 March 2004, UN Doc. CCPR/C/80/D/888/1999, para. 7.6.

<sup>292</sup> UNHRC, General Comment 31, para. 15.

<sup>293</sup> UNHRC, General Comment 20, 14.

<sup>294</sup> UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ("Istanbul Protocol"), 2004, available at <http://www.ohchr.org/Documents/Publications/training8rev1en.pdf>.

<sup>295</sup> Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Economic and Social Council Resolution 1989/65, 24 May 1989, para. 9 & 11 ("Minnesota Principles").

<sup>296</sup> The United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, UN Doc. E/ST/CSDHA/12 (1991) ("Minnesota Protocol").

<sup>297</sup> UNHRC, General Comment 31, para. 15.

<sup>298</sup> *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (the Istanbul Principles), adopted by General Assembly resolution 55/89 of 22 February 2001, Article 2; see also Minnesota Principles, Article 11.

investigated by or under the authority of the police.<sup>299</sup> In addition, an impartial investigation must be directed at uncovering the facts regarding what happened.<sup>300</sup>

- *Prompt and expeditious.* Deaths in custody and complaints of ill-treatment in custody must be investigated promptly so as to make the remedy effective,<sup>301</sup> and allegations of ill-treatment of detainees must be investigated “as expeditiously and thoroughly as possible”.<sup>302</sup>
- *Thorough investigation.* One of the “fundamental principles of any viable investigation”<sup>303</sup> of torture and deaths in custody is the State’s duty to investigate thoroughly.<sup>304</sup> Investigations must be thorough in seeking to ascertain the material facts,<sup>305</sup> and authorities “should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions.”<sup>306</sup>
- *Family participation.* For an investigation to be “effective”, it must include some form of family involvement. At a minimum, family members of the victim must be informed of the outcome of the investigation into alleged abuses by the State.<sup>307</sup> The Istanbul Principles and Minnesota Principles provide that the victim’s family and legal representative shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence.<sup>308</sup> In a forensic evaluation “[t]he family of the deceased have a right to insist that a medical or other qualified representative be present at the autopsy.”<sup>309</sup>
- *Public scrutiny.* For an investigation to be effective, it must be made public.<sup>310</sup> The Committee against Torture has recommended establishing centralized public registers of complaints of torture and of the results of investigations, to ensure openness and impartiality.<sup>311</sup>
- *Prosecution of the Perpetrators.* This Committee has explained that a failure to bring perpetrators to justice could give rise to a separate breach of the ICCPR, an obligation that applies in particular to violations of Articles 6 and 7.<sup>312</sup> The Committee against Torture has

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<sup>299</sup> UNHRC, *Concluding Observations on Hong Kong* (1996), UN Doc. CCPR/C/79/Add. 57, para. 11; UNHRC, *Concluding Observations on Kenya*, (2005) UN Doc. CCPR/CO/83/KEN, para. 18; UNHRC, *Concluding Observations on Slovenia*, (2005) UN Doc. CCPR/CO/84/SVN, para. 9; UNHRC, *Concluding Observations on Zambia*, UN Doc. CCPR/C/79/Add. 62 (1996), para. 12.

<sup>300</sup> *Corsacov v. Moldova*, ECtHR, Judgment of 4 April 2006, para. 69; see Minnesota Principles, para. 9.

<sup>301</sup> See UNHRC, General Comment 20, para. 14. See also Istanbul Principles, para. 2; Minnesota Principles, para. 9.

<sup>302</sup> *Stephens v. Jamaica*, UNHRC, Views of 18 October 1995, UN Doc. CCPR/C/55/D/373/1989, para. 9.2.

<sup>303</sup> Istanbul Protocol, para. 74; Minnesota Protocol, Introduction part (A).

<sup>304</sup> *José Vicente et. al. v. Colombia*, UNHRC, Views of 29 July 1997, para. 8.8; *Stephens v. Jamaica*, UNHRC, Views 18 October 1995, para. 9.2; *Ristic v. Yugoslavia*, UNCAT, Views of 11 May 2001, para. 9.6; *Arhuacos v. Colombia*, UNHRC, Views of 19 August 1997, UN Doc. CCPR/C/60/D/612/1995, para. 8.8; and *Bautista v. Colombia*, UNHRC, Views of 13 November 1995, UN Doc. CCPR/C/55/D/563/1993, para. 8.6; Minnesota Principles, para. 9; Minnesota Protocol, *passim*.

<sup>305</sup> *Ristic v. Yugoslavia*, UNCAT, Views of 11 May 2001, para. 9.6.

<sup>306</sup> *Corsacov v. Moldova*, ECtHR, Judgment of 4 April 2006, para. 69.

<sup>307</sup> *El Hassy v. Libyan Arab Jamahiriya*, UNHRC, Views of 24 October 2007, para. 8.

<sup>308</sup> Istanbul Principles, Article 4; Minnesota Principles, Article 16.

<sup>309</sup> Minnesota Principles, Article 16.

<sup>310</sup> Istanbul Principles, Article 5; Minnesota Principles, Article 17. See also UNCAT, Summary Record of the 245<sup>th</sup> Meeting, UN Doc. CAT/C/SR.245, 11 June 1996, para. 37; Nowak and McArthur, *The United Nations Convention against Torture: A Commentary* (Oxford: Oxford University Press, 2008) at 437.

<sup>311</sup> *Report of the Committee against Torture: Twenty-fifth session (13-24 November 2000), Twenty-sixth session (30 April-18 May 2001)*, UN Doc A/56/44, 2001, para. 97(e).

<sup>312</sup> UNHRC, General Comment 31, para. 18; see also UNHRC, General Comment 20, para. 15.



similarly confirmed that investigations should seek to ascertain the facts and identify the perpetrators.<sup>313</sup>

#### Failure to Conduct an Effective and Impartial Investigation

153. Turkmenistan failed to conduct any investigation into Ms. Muradova's torture or death – let alone the type of thorough, independent investigation that this Committee requires. This is despite numerous repeated calls from the international community for just that (see paras. 64-69, above). The only step Turkmen authorities apparently took was an autopsy of Ms. Muradova's body, but the family never received an autopsy report, the government refused to make one public, and the family's request for an independent autopsy was denied (see paras. 53-55, above). Far from providing the family with the chance to participate in an investigation of Ms. Muradova's death, Turkmenistan instead persecuted Ms. Muradova's children for passing information about her death to the Author and his wife (see paras. 56-58, above).
154. Only in March 2012 did Turkmenistan claim – for the first time – that her torture and death were investigated, and that she committed suicide (see para. 68, above). However, it gave no detail about the alleged investigation – not even basic information about who conducted it, when it was conducted, or how. Moreover, its conclusion that Ms. Muradova committed suicide contradicts all other evidence surrounding her death. An investigation which is mentioned for the first time more than five years after a death in custody certainly cannot be considered prompt; without any information about the alleged investigation or its illogical conclusion, it cannot be considered “transparent”; and it is also impossible to know whether it was thorough, impartial, or independent. Therefore, even if Turkmenistan did conduct this alleged investigation, it would not fulfil the most basic principles an investigation must meet to satisfy Article 2(3).
155. As a result of the failure to conduct any investigation, and the unsubstantiated insistence that Ms. Muradova either died of natural causes or committed suicide, no one has ever been held responsible for Ms. Muradova's torture and death.
156. The Turkmen authorities' failure to investigate Ms. Muradova's mistreatment and death is symptomatic of Turkmenistan's “climate of impunity” in which government abuses are rarely investigated and officials almost never face meaningful discipline or prosecution (see paras. 89-91, above). The absence of any meaningful infrastructure to conduct such investigations and, where relevant, prosecutions shows Turkmenistan's disinterest in fulfilling its obligations under Article 2(3) of the ICCPR; it does not excuse Turkmenistan from the duty to fulfil them.
157. Under these circumstances, Turkmenistan's refusal to investigate Ms. Muradova's torture and death violates the most basic requirements for investigating custodial torture and death required by Articles 6(1) and 7 in conjunction with Article 2(3) of the ICCPR.

#### **E. Failure to Provide Redress: Articles 6(1) and 7 with Article 2(3)**

158. The Turkmen authorities have actively obstructed Ms. Muradova's family from seeking or obtaining redress for her torture and death, in further violation of Articles 6(1) and 7 of the ICCPR in conjunction with Article 2(3). Article 2(3) of the ICCPR has been interpreted by this Committee as placing an obligation on States to use their resources not only to investigate and punish violators, but also to compensate victims of human rights violations.<sup>314</sup> This Committee has stated that “States may not deprive individuals of the right to an effective remedy, including compensation.”<sup>315</sup> It has explained that the nature of the remedy – whether judicial, administrative or other – should be in

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<sup>313</sup> *Encarnación Blanco Abad v. Spain*, UNCAT, Views of 14 May 1998, UN Doc. CAT/C/20/D/59/1996, para. 8.8; *Dzemañil v. Yugoslavia*, UNCAT, Views of 21 November 2002, UN Doc. CAT/C/29/D/161/2000, para. 9.4.

<sup>314</sup> UNHRC, General Comment 31, para. 16.

<sup>315</sup> UNHRC, General Comment 20, para. 15.

accordance with the rights violated and the effectiveness of that remedy in granting appropriate relief for the violation.<sup>316</sup> The Committee against Torture has affirmed that reparation for torture includes restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition,<sup>317</sup> and that States must provide reparation regardless of whether the State agents involved in torture have been identified and held responsible.<sup>318</sup>

159. In this case, the Turkmen government has provided no redress for Ms. Muradova's torture or death: it has provided no judicial, administrative, or other remedy, and has not compensated Ms. Muradova's family in any way. Moreover, the government has consistently denied any responsibility for her torture or death. It has never provided any accountability or acknowledged that she was mistreated while in custody, and it has conflictingly called her death a result of natural causes and a suicide. The Turkmen government even continues to deny that it persecutes journalists and human rights defenders at all.
160. Worse, the Turkmen government has *intentionally* discouraged Ms. Muradova's family from seeking redress, through intimidation and harassment. As discussed above (see paras 56-58, above), after Ms. Muradova died, her children sought redress through diplomats and through their family outside of Turkmenistan (the Author and his wife), who contacted international NGO staff and diplomats outside of Turkmenistan. They hoped that outside parties could pressure the Turkmen government to respond to her death. Instead of responding positively, Turkmen authorities cut their phone lines, kept them under surveillance, warned them not to talk about Ms. Muradova or to contact the Author, and said that "too much information is getting out." As a result, the Author had to stop direct communication with Ms. Muradova's children, and the family was unable to seek any remedy for Turkmenistan's violations. Moreover, Ms. Muradova's daughters lost their jobs because of their relationship with their mother (see para. 31, above), but received no compensation for her death. Turkmenistan's denial of redress for Ms. Muradova's torture and death is a further violation of Articles 6(1) and 7 of the ICCPR, in conjunction with Article 2(3).

#### **F. No Judicial Authorization of Pre-Trial Detention: Article 9(3)**

161. The law in force in Turkmenistan in 2006 authorized a prosecutor, and not a judge, to decide whether to detain a suspect before trial. This law is contrary to Article 9(3) of the ICCPR, which states in part that "[a]nyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release". This Committee has stressed that decisions on pre-trial detention must be made by an authority that is "independent, objective and impartial in relation to the issues dealt with".<sup>319</sup> It has repeatedly found that a public prosecutor is not an "officer authorized by law to exercise judicial power" because the public prosecutor lacked the requisite "institutional objectivity and impartiality".<sup>320</sup>
162. In this case, Ms. Muradova's detention was governed by Article 96 of Turkmenistan's Criminal Procedure Code (CPC) of 1961, which authorized prosecutors, rather than judges, to decide

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<sup>316</sup> UNHRC, Concluding Observations on Finland, UN Doc. CCPR/C/79/Add.91, 4 August 1998, para. 10. See e.g. *Vicente et al v. Colombia*, UNHRC, Views of 19 August 1997, UN Doc. CCPR/C/60/D/612/1995, para. 5.2; *de Arellana v. Colombia*, UNHRC, Views of 27 October 1995, UN Doc. CCPR/C/55/D/563/1993, para. 8.2.

<sup>317</sup> UNCAT, General Comment 3 on implementation of Article 14 by State Parties, 2012, para. 2.

<sup>318</sup> UNCAT, Summary Record of the 109th meeting, UN Doc. CAT/C/SR.109, para. 27; UNCAT, Report of the Committee against Torture, 1992, UN Doc. A/47/44, para. 337.

<sup>319</sup> *Torobekov v Kyrgyzstan*, UNHRC, Views of 27 October 2011, UN Doc. CCPR/C/103/D/1547/2007, para 6.2.

<sup>320</sup> *Torobekov v Kyrgyzstan*, UNHRC, Views of 27 October 2011, UN Doc. CCPR/C/103/D/1547/2007, para 6.2; *Kaldarov v. Kyrgyzstan*, UNHRC, Views of 18 March 2010; UN Doc. CCPR/C/98/D/1338/2005, para 8.2; *Platonov v. Russian Federation*, UNHRC, Views of 1 November 2005, UN Doc. CCPR/C/85/D/1218/2003, para. 7.2.

whether to hold suspects in pre-trial detention.<sup>321</sup> An OSCE analysis of virtually the same provision in the 2009 CPC<sup>322</sup> states that it does not provide for judicial review of the legality and justifiability of pre-trial detention,<sup>323</sup> contrary to ICCPR Article 9(3). The analysis confirms that the prosecutor does not satisfy the requirements of independence and impartiality necessary to make decisions on the legality of detention pursuant to Article 9(3) because the prosecutor is responsible for criminal prosecutions.<sup>324</sup> As such, Article 96 of the 1961 CPC violates Article 9(3) of the ICCPR on its face. Because it can be presumed that the 1961 CPC was applied in Ms. Muradova's case,<sup>325</sup> and because no legislative act would allow Ms. Muradova to be brought before a judge, Ms. Muradova's detention violated Article 9(3).

#### **G. Violation of the Right to a Fair Trial: Article 14**

163. Ms. Muradova's trial was marred by numerous violations of her fair trial rights under Article 14 of the ICCPR, such that the process as a whole was manifestly arbitrary and amounted to a denial of justice. Specifically, Turkmenistan denied her rights: (1) to be presumed innocent until proven guilty, (2) to prompt and effective assistance of counsel, in particular during interrogation, (3) to a public hearing, and (4) to review of her conviction and sentence by a higher tribunal according to law.

##### 1. Violation of the Presumption of Innocence

164. Before her trial, senior Turkmen officials violated Ms. Muradova's right to be presumed innocent until proven guilty pursuant to Article 14(2) of the ICCPR by publicly condemning her as a criminal for her journalistic and human right activities.

##### *Legal Standards: Presumption of Innocence*

165. Article 14(2) states that “[e]veryone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law”. This Committee has clarified that under Article 14(2), “[i]t is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused ... The media should avoid news coverage undermining the presumption of innocence”.<sup>326</sup>
166. Applying these principles, the Committee has repeatedly found violations of the presumption of innocence where public officials make statements about a person charged with a criminal offence

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<sup>321</sup> The Criminal Procedure Code of Turkmen SSR, 1961, article 96 states that “The Prosecutor General, prosecutors of oblasts, prosecutor of the Ashgabat city, their deputies, city and district [rayon] prosecutors, military and transportation prosecutors have the right to order pre-trial detention [давать санкцию на арест].”

<sup>322</sup> The Criminal Procedure Code of Turkmenistan, 2009, article 154 (5) states that “The Prosecutor General of Turkmenistan, prosecutor of velayat, prosecutors of district, cities, military and specialized prosecutors and their deputies have the right to order pre-trial detention [давать санкцию на арест].”

<sup>323</sup> Kalinovskii, *Commentary to the Criminal Procedure Code of Turkmenistan* (2011), p. 223, available in Russian at <http://www.osce.org/ru/ashgabat/89898>.

<sup>324</sup> Stephen Thaman, “Introduction to the Criminal Procedure Code of Turkmenistan”, in Kalinovskii, *Commentary to the Criminal Procedure Code of Turkmenistan* (2011), p. 6, available in Russian at <http://www.osce.org/ru/ashgabat/89898>.

<sup>325</sup> Nowak, *U.N. Covenant on Civil and Political Rights*, (2nd ed., Germany: N.P. Engel, 2005), 873 para. 4 (“Should the State concerned fail to fulfil its duty to provide information under Article 4(2) OP, the Committee will ... base its findings of fact on those plausible allegations that the author has submitted and substantiated”, citing *Massera et al. v. Uruguay*, UNHRC, Views of 15 August 1979, Un Doc. Supp. No. 40 (A/34/40) at 124 (1979), para. 9; *Millan v. Uruguay*, UNHRC, Views of 29 July 1980, UN Doc. Supp. No. 40 (A/35/40) at 127 (1980), para. 12).

<sup>326</sup> UNHRC, General Comment 32: Right to equality before the courts and tribunals and to a fair trial, 2007, para. 30.

that convey an assumption that the person is guilty before this is proved.<sup>327</sup> For example, the Committee found that an accused's right to be presumed innocent had been violated in a case where the head of the police announced that he "was sure" of the accused's guilt before the trial began, this announcement was broadcast on television, and the investigator in the case also pronounced the accused guilty in public meetings before the court hearing.<sup>328</sup>

#### *Violation of the Presumption of Innocence*

167. Turkmen authorities deprived Ms. Muradova of the right to be presumed innocent by publicly condemning her as a "traitor" more than two months before her trial. Shortly after her arrest, they held a televised meeting during which Turkmen high officials, including the President, called Ms. Muradova and her colleagues "traitors" who committed "espionage" and other subversive activities designed to undermine the government. The President called on people to "condemn the traitors" (see paras. 32-33, above). These statements prejudged Ms. Muradova and her colleagues as criminals, and the President's pronouncement of Ms. Muradova's guilt left her little hope of a fair trial or any outcome other than conviction, because the President dominates the Turkmen government and controls the judiciary (see para. 92, above). It is irrelevant that Ms. Muradova was later charged with and convicted of weapons-related charges and not "espionage" or "treason" because the underlying intent of the televised government meeting was to brand Ms. Muradova and her colleagues as criminals to be "condemned", in violation of her right to be presumed innocent.

#### 2. Violations of the Right to Counsel

168. Turkmen authorities prevented Ms. Muradova from having access to a lawyer during the initial stages of her detention and during interrogation, from choosing her own lawyer, and from receiving effective assistance from a lawyer, in violation of Articles 14(3)(b) and (d) of the ICCPR.

#### *Legal Standards: Right to Counsel*

169. Articles 14(3)(b) and (d) contain minimum guarantees to ensure that people accused of crimes can obtain a fair trial. Article 14(3)(b) states that, "In the determination of any criminal charge against him, everyone shall be entitled ... to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing". Article 14(3)(d) includes the right of a person to "be tried in his presence, and to defend himself in person or through legal assistance of his own choosing".
170. These rights apply to all stages of criminal proceedings,<sup>329</sup> including the initial period of detention.<sup>330</sup> In particular, denial of a lawyer during the initial days of detention and interrogation without a lawyer violates Articles 14(3)(b) and (d).<sup>331</sup> For example, in *Lyashkevich v. Uzbekistan*, the Committee found a breach on the grounds that the accused was denied access to the lawyer of

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<sup>327</sup> See for example: *Mwamba v. Zambia*, UNHRC, Views of 30 April 2010, UN Doc. CCPR/C/98/D/1520/2006, para. 6.5; *Karimov and Nursatov v. Tajikistan*, UNHRC, Views of 3 April 2007, UN Doc. CCPR/C/89/D/1108&1121/2002, para. 7.4; *Francisco Juan Larrañaga v. The Philippines*, UNHRC, Views of 14 September 2006, UN Doc. CCPR/C/87/D/1421/2005, para. 7.4

<sup>328</sup> *Gridin v. Russian Federation*, UNHRC, Views of 18 July 2000, UN Doc. CCPR/C/69/D/770/1997, paras. 3.5, 8.3

<sup>329</sup> *Saidova v. Tajikistan*, UNHRC, Views of 8 July 2004, UN Doc. CCPR/C/81/D/964/2001, para. 6.8; *Borisenco v. Hungary*, UNHRC, Views of 14 October 2002, UN Doc. CCPR/C/76/D/852/1999, para. 7.5.

<sup>330</sup> *Rolando v. Philippines*, UNHRC, Views of 8 December 2004, UN Doc. CCPR/C/82/D/1110/2002, para. 5.6.

<sup>331</sup> *Gridin v. Russian Federation*, UNHRC, Views of 18 July 2000, UN Doc. CCPR/C/69/D/770/1997, para. 8.5; *Marlem Carranza Alegre v. Peru*, UNHRC, Views of 17 November 2005, UN Doc. CCPR/C/85/D/1126/2002, para. 7. E.g. *Machado v. Uruguay*, UNHRC, Views of 4 November 1983, UN Doc. Supp. No. 40 (A/39/40) at 148, paras. 1.2-1.4, 1.9, 13; *Adolfo Drescher Caldas v. Uruguay*, Views of 21 July 1983, UN Doc. Supp. No. 40 (A/38/40) at 192, paras. 2.1, 2.4, 14.

his choice for one day, and that interrogations and other investigative acts were conducted during that time, regardless of the fact that a state-appointed lawyer was assigned to the accused and had been present throughout.<sup>332</sup> Similarly, in *Gridin v. Russian Federation*, the Committee held that the respondent State violated Article 14(3)(b) by holding the author in custody for five days and interrogating him without a lawyer.<sup>333</sup> The Committee against Torture has similarly stated that the fundamental legal safeguards during detention include, “in particular, *from the actual moment of deprivation of liberty, the right to access a lawyer*”.<sup>334</sup>

171. This Committee has also held that it is not enough for an accused merely to have *access* to a lawyer of his or her own choosing. Rather, it is “axiomatic that the accused must be *effectively* assisted by a lawyer”.<sup>335</sup> Where a State-appointed lawyer’s behaviour is manifestly incompatible with the interests of justice and the State takes no steps to ensure that counsel provides effective assistance, this Committee has found violations of Articles 14(3)(b) and (d).<sup>336</sup> For example, where an accused person is only provided with legal counsel towards the end of an investigation against him, does not have counsel of his own choice, and is not informed of the right to be represented by a lawyer upon arrest, and where his lawyer is frequently absent during the trial, the lawyer’s representation is manifestly ineffective, and the State can be held responsible for violating Articles 14(3)(b) and (d).<sup>337</sup> The ECtHR has similarly held that the State can be held responsible for failures of State-appointed lawyers that are “manifest or sufficiently brought to their attention”.<sup>338</sup>
172. Turkmenistan’s treatment of Ms. Muradova breached each of these components of the right to a fair trial.

*No access to a lawyer during the initial stages of detention*

173. The circumstances of Ms. Muradova’s arrest and the early stages of her detention indicate that she did not have a lawyer at that time. The State appointed a lawyer to Ms. Muradova (see para. 34, above), but there is no evidence about when he was assigned. Moreover, he did not meet with her often – if at all. The lawyer admitted that he tried to postpone meeting with Ms. Muradova, and that the authorities were putting pressure on him (see para. 36, above). This makes it even less likely that Ms. Muradova’s lawyer was with her during the initial stages of her detention.

*Interrogation without a lawyer*

174. The evidence indicates that Ms. Muradova was interrogated after her arrest. When Ms. Muradova was arrested around 18 June 2006, police said they wanted to have a “conversation” with her (see para. 27, above). They compelled her to authorize her family to give her computer, fax and cell phone to the police (see para. 28, above). Additionally, the Author and his wife believe that, during her detention, the Turkmen authorities tried to get her to “confess” to the crimes she was later charged with and to the human rights activities she performed with the Author and his wife, and Ms. Muradova expressed that “she could not stand the mistreatment” she was suffering (see paras.

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<sup>332</sup> *Lyashkevich v. Uzbekistan*, UNHRC, Views of 11 May 2010, UN Doc. CCPR/C/98/D/1552/2007, para. 9.4. See also *Kasimov v. Uzbekistan*, UNHRC, Views of 30 July 2009, UN Doc. CCPR/C/96/D/1378/2005, para. 9.6.

<sup>333</sup> *Gridin v. Russian Federation*, UNHRC, Views of 18 July 2000, UN Doc. CCPR/C/69/D/770/1997, para. 8.5.

<sup>334</sup> UNCAT, Concluding observations on Kazakhstan of 21 November 2008, UN Doc. CAT/C/KAZ/CO/2, para. 9 (emphasis added).

<sup>335</sup> *Saidova v. Tajikistan*, UNHRC, Views of 8 July 2004, UN Doc. CCPR/C/81/D/964/2001, para. 6.8 (emphasis added); *Whyte v. Jamaica*, UNHRC, Views of 27 July 1998, UN Doc. CCPR/C/63/D/732/1997, para. 9.2.

<sup>336</sup> *Saidova v. Tajikistan*, UNHRC, Views of 8 July 2004, UN Doc. CCPR/C/81/D/964/2001, para. 6.8.

<sup>337</sup> *Saidova v. Tajikistan*, UNHRC, Views of 8 July 2004, UN Doc. CCPR/C/81/D/964/2001, para. 6.8.

<sup>338</sup> *Kamasinski v. Austria*, ECtHR, Judgment of 19 December 1989, para. 65; *Daud v. Portugal*, ECtHR, Judgment of 21 April 1998, para. 38; *Siałkowska v. Poland*, ECtHR, Judgment of 22 March 2007, para. 99; *Kulikowski v. Poland*, ECtHR, Judgment of 19 May 2009, para. 56.

37-38). NGOs including Amnesty International and Human Rights Watch reported that she was ill-treated and drugged while in custody to force her to “confess” to “subversive activities” (see para. 38, above). Given that Ms. Muradova was denied access to her lawyer during most – and possibly all – of her detention, the interrogations during her detention would have occurred in her lawyer’s absence.

*No effective assistance of a lawyer*

175. Turkmenistan intentionally prevented Ms. Muradova’s lawyer from rendering effective assistance. As is described above (see para. 36, above), the lawyer admitted that government authorities put pressure on him, that he was afraid of taking Ms. Muradova’s case, and that he tried to postpone meetings with Ms. Muradova. Moreover, the Turkmen authorities may have prevented Ms. Muradova from having the assistance of her lawyer at her trial (see para. 41, above). Under these circumstances, she did not receive the effective assistance of a lawyer.

3. Violation of the Right to a Public Trial

176. The Turkmen authorities closed Ms. Muradova’s trial to the public, and barred even her lawyer and family from attending. Following her conviction, the authorities failed to produce a written judgment. Such a “secret trial” violates the right to a public hearing under Article 14(1).

*Legal Standards: Public Hearings*

177. Article 14(1) provides that “everyone shall be entitled to a fair and public hearing”. All trials in criminal matters must in principle be conducted orally and publicly, which ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large. Courts must make information regarding the time and venue of the oral hearings available to the public and provide adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, *inter alia*, the potential interest in the case and the duration of the oral hearing.<sup>339</sup>
178. While Article 14(1) acknowledges that courts may exclude all or part of the public for specific reasons – such as of morals, public order, national security in a democratic society, privacy of the parties, or when strictly necessary to prevent prejudicing the interests of justice – this Committee has placed the burden of proof on States to justify holding trials *in camera*.<sup>340</sup> Apart from such exceptional circumstances, a hearing must be open to the general public, including members of the media, and must not, for instance, be limited to a particular category of persons. Even in cases in which the public is excluded from the trial, the judgment, including the essential findings, evidence and legal reasoning must be made public.<sup>341</sup>
179. This Committee has applied these principles to find that the unjustified use of “secret justice” to suppress regime opponents violates Article 14(1). For example, in *Lucia Sala de Touron v. Uruguay*, the Committee held that Uruguay was in violation of Article 14(1) where the author’s husband, who was arrested for “his political opinions and public activities,” was convicted without a public trial or a public pronouncement of the judgment.<sup>342</sup> The Committee made a similar finding

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<sup>339</sup> UNHRC, General Comment 32, para. 28; *van Meurs v. the Netherlands*, UNHRC, Views of 13 July 1990, UN Doc. CCPR/C/39/D/215/1986, paras. 6.1-6.2.

<sup>340</sup> *Estrella v. Uruguay*, UNHRC, Views of 19 March 1983, UN Doc. CCPR/C/OP/2, para. 10 (finding a violation of Article 14(1) where the Author was “tried without a public hearing and no reason has been given by the State party to justify this in accordance with the Covenant”).

<sup>341</sup> UNHRC, General Comment 32, para. 29. The only exceptions are where the interest of juvenile persons otherwise requires, or the proceedings concern matrimonial disputes or the guardianship of children.

<sup>342</sup> *Lucia Sala de Touron v. Uruguay*, UNHRC, Views of 31 March 1981, UN Doc. CCPR/C/OP/1 at 61, paras. 2.2, 8, 12.

in *Nqalula Mpandanjila et al. v. Zaire*, where members of a political party opposing President Mobutu were convicted in closed trials of plotting to overthrow the regime and planning to establish a political party.<sup>343</sup>

#### *The Closed Trial Violated the ICCPR*

180. The Turkmen government went to great lengths to close Ms. Muradova's trial to the public, in violation of her right to a public hearing. First, Turkmen authorities failed to provide clear or adequate notice about the date of her trial. As described above (see para. 39, above), a few days before the trial, Ms. Muradova's children knew that there would be a hearing on 25 August 2006, but not whether it involved Ms. Muradova. Annakurban Amanklychev's lawyer believed it was only for him. Ms. Muradova's children only learned that her trial would also be held on 25 August while waiting near the court building that day.
181. Second, as is described above (see para. 40, above), Turkmen authorities prevented the public from accessing the courtroom where her trial was held – including Ms. Muradova's family. To close the courtroom, government employees and armed soldiers were posted there. To prevent access even to the court *building*, police blocked the road to it, and monitored and attempted to identify anyone who was able to gather there – measures that surely intimidated those present. Turkmen authorities also cancelled other hearings that were supposed to be held in that court building that day, which minimized the members of the public who would be there.
182. Third, no written judgment was given to the lawyer or family or made public after the trial (see para. 42, above). As a result, there is no publicly available information about what happened at the trial – what evidence was presented against Ms. Muradova, Annakurban Amanklychev and Sapardurdy Khadzhiyev, what specifically they were able to say or do in their defence, and what legal and factual basis the judge provided for their conviction.
183. The Turkmen government has never justified its decision to exclude the public from Ms. Muradova's trial or to withhold its judgment from the public, and no exceptional circumstances exist that might validate these actions. There is no evidence that “morals, public order ... or national security in a democratic society” required it, that the “interest of the private lives of the parties” could justify it, or that publicity would prejudice the interests of justice, nor has the government alleged that any such circumstances existed. Rather, it appears that the government intended to hold a quick trial, without public scrutiny or obstruction.

#### 4. Violation of the Right to Review of Her Conviction and Sentence

184. Following her trial, Ms. Muradova was unable to seek review of her conviction and sentence according to law in violation of Article 14(5) of the ICCPR, because her lawyer had no copy of the judgment and thus could not file a meaningful appeal.
185. Article 14(5) states that “[e]veryone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law”. This right:

imposes on the State party a duty to review substantively, both on the basis of sufficiency of the evidence and of the law, the conviction and sentence, such that the procedure allows for due consideration of the nature of the case. A review that is limited to the formal or legal aspects of the conviction without any consideration whatsoever of the facts is not sufficient under the Covenant.<sup>344</sup>

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<sup>343</sup> *Nqalula Mpandanjila et al. v. Zaire*, UNHRC, Views of 26 March 1986, UN Doc. Supp. No. 40 (A/41/40) at 121, paras. 2.1-2.3, 8.2, 9.

<sup>344</sup> UNHRC, General Comment 32, para. 48.

186. This Committee has further specified that the “the State party should provide the convicted person with access to the judgements and documents necessary to enjoy the effective exercise of the right to appeal”.<sup>345</sup> Thus, for example, in *Lumley v. Jamaica*, this Committee held that the State violated Article 14(5) because it did not give the author the trial transcript he needed to appeal his criminal conviction.<sup>346</sup>
187. Here, Turkmen authorities prevented Ms. Muradova from seeking review of her conviction and sentence, because, as is described above (see paras. 42-44), Ms. Muradova’s lawyer had no information on which to base a meaningful appeal. He had no formal written judgment on which to base an appeal because the trial court never issued one. He could not discuss any possible appeal with Ms. Muradova because Turkmen authorities did not formally disclose where they detained her after the trial. As such, the Author believes that, if the lawyer filed an appeal, it would have been blank, following the practice of Turkmen lawyers to file a blank appeal before the filing deadline expires in order to preserve the right of appeal – but without any substance.

#### **H. Violation of Rights as a Journalist and Human Rights Defender: Articles 9 and 19**

188. Turkmenistan’s violations of Ms. Muradova’s human rights – her arbitrary detention, torture, sham trial, and death, the persecution of family members who sought redress, and the failure to effectively investigate these violations – reveal a concerted effort to silence her critical voice as a journalist and human rights defender in Turkmenistan. The mistreatment of Ms. Muradova thus also violated Turkmenistan’s obligations under the ICCPR to respect and protect human rights defenders, in particular violating Ms. Muradova’s freedom from arbitrary arrest and detention (Article 9) and freedom of expression (Article 19).

#### The Duty to Protect Human Rights Defenders

189. The right to promote human rights and to enjoy protection when those rights are violated is embodied in the 1999 Declaration on the Right to Promote Human Rights.<sup>347</sup> It states that the positive obligation on governments to respect and ensure human rights includes a duty to protect human rights defenders in their exercise of the right to oppose “activities and acts ... attributable to States that result in violations of human rights and fundamental freedoms.”<sup>348</sup> This duty includes protection against “any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action,”<sup>349</sup> and falls under States’ general obligation to prevent ICCPR violations.<sup>350</sup>
190. States’ duty to safeguard human rights defenders is particularly important given the heightened risk they face as a result of their work. The UN Special Rapporteur on the situation of human rights defenders has stated that defenders are likely to get arrested and prosecuted on false charges, and are often denied access to a lawyer, medical care, and judicial process when in detention.<sup>351</sup> The

<sup>345</sup> *Lumley v. Jamaica*, UNHRC, Views of 30 April 1999, UN Doc. CCPR/C/65/D/662/1995, para. 7.5.

<sup>346</sup> *Lumley v. Jamaica*, UNHRC, Views of 30 April 1999, UN Doc. CCPR/C/65/D/662/1995, para. 7.5.

<sup>347</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/53/144, 1999, Articles 1, 9 (“Declaration on the Right to Promote Human Rights”).

<sup>348</sup> Declaration on the Right to Promote Human Rights, Article 12; see also ICCPR Article 2(1).

<sup>349</sup> *Ibid.*

<sup>350</sup> See e.g. ICCPR Article 2; UNHRC, General Comment 20, para. 11.

<sup>351</sup> UN Special Rapporteur on the Situation of Human Rights Defenders, UN Doc. A/HRC/13/2230, December 2009, para. 31. Certain categories of defenders, such as members of human right NGOs, journalists, women defenders, and defenders of lesbian, gay, bisexual and transgender rights are subject to particularly virulent threats, attacks and intimidation (see paras. 55, 49, 47).



Special Rapporteur also noted that defenders trying to gather and publish information on violations of human rights are particularly likely to be the targets of “killing, harassment and threats.”<sup>352</sup>

#### Arbitrary Detention of Journalists and Human Rights Defenders: Article 9

191. Article 9(1) provides that “No one shall be subjected to arbitrary arrest or detention.” This Committee has held that the protection against arbitrary detention applies broadly, and that “‘arbitrariness’ is not to be equated with ‘against the law’, but must be interpreted more broadly to include elements of inappropriateness, injustice and lack of predictability.”<sup>353</sup> The UN Working Group on Arbitrary Detention regards detention as arbitrary where it occurs merely because a detainee has exercised one of their fundamental rights.<sup>354</sup> Detention for an ulterior purpose, such as to force the disclosure of information, may also be arbitrary.<sup>355</sup>
192. In addition, detention will also be arbitrary if it is “motivated by discrimination”,<sup>356</sup> which includes distinctions based on “political or other opinion”.<sup>357</sup> This principle is essential in protecting the rights of vulnerable populations such as individuals espousing views that place them in danger of governmental or third party reprisals.<sup>358</sup>
193. This Committee has recognized that journalists are frequently subjected to arbitrary arrest because of their activities.<sup>359</sup> It has repeatedly affirmed that detention aimed at silencing an advocate for greater democracy,<sup>360</sup> or detention as a result of someone’s personal political views,<sup>361</sup> is arbitrary and a violation of Article 9. The ECtHR has also condemned detention which was used partly for the purpose of silencing political opposition as a violation of Article 5 of the European Convention (right to liberty and security).<sup>362</sup>

#### Freedom of Expression of Journalists and Human Rights Defenders: Article 19

194. Article 19(2) of the ICCPR provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds” and through any form of media. In General Comment 34,<sup>363</sup> this Committee specifically noted that Article 19(2) protects journalism, discussion of human rights, political discourse, and commentary on public affairs.<sup>364</sup> It stated that “[a] free, uncensored and unhindered press or other media is

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<sup>352</sup> Ibid., paras. 40, 53.

<sup>353</sup> *Van Alphen v. The Netherlands*, UNHRC, Views of 23 July 1990, UN Doc. CCPR/C/39/D/305/1988, para. 5.8; *Mukong v. Cameroon*, UNHRC, Views of 21 July 1994, UN Doc. CCPR/C/51/D/458/1991, para. 9.8; *A v. Australia*, UNHRC, Views of 30 April 1997, UN Doc. CCPR/C/59/D/560/1993, para. 7.6 (referring to the *travaux préparatoires* to Article 9(1)).

<sup>354</sup> *Fact Sheet No. 26: The Working Group on Arbitrary Detention*, OHCHR, at Part II. Available at: <http://www.ohchr.org/Documents/Publications/FactSheet26en.pdf>.

<sup>355</sup> *Mbenge v. Zaire*, UNHRC, Views of 25 March 1983, UN Doc. CCPR/C/OP/, paras. 20-21.

<sup>356</sup> Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Strasbourg: N.P. Engel, 2005), 225.

<sup>357</sup> UNHRC, General Comment 18: Non-discrimination, 1989, para. 7.

<sup>358</sup> See also UNCAT, General Comment 2, para. 21.

<sup>359</sup> UNHRC, General Comment 34, para. 23.

<sup>360</sup> *Mukong v. Cameroon*, UNHRC, Views of 21 July 1994, UN Doc. CCPR/C/51/D/458/1991, paras. 9.6, 9.8. See also *Gusinskiy v. Russia*, ECtHR, Judgment of 19 May 2004, para. 77.

<sup>361</sup> *Bahamonde v. Equatorial Guinea*, UNHRC, Views of 10 November 1993, UN Doc. CCPR/C/49/D/468/1991, paras. 9.1, 9.5; *Jaona v. Madagascar*, UNHRC, Views of 1 April 1985, Communication No. 132/1982, para. 14; *Blanco v. Nicaragua*, UNHRC, Views of 20 July 1994, UN Doc. CCPR/C/51/D/328/1988, para. 10.3. See also *Gusinskiy v. Russia*, ECtHR, Judgment of 19 May 2004, para. 77.

<sup>362</sup> *Gusinskiy v. Russia*, ECtHR, Judgment of 19 May 2004, para. 77; see also paras. 62-78.

<sup>363</sup> UNHRC, General Comment 34: Article 19: Freedoms of opinion and expression, 21 July 2011, UN Doc. CCPR/C/GC/34.

<sup>364</sup> UNHRC, General Comment 34, para. 11.

essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights” and that it is “one of the cornerstones of a democratic society.”<sup>365</sup>

195. In General Comment 34, this Committee also explained the duties of States toward the media. It stated that States should “take particular care to encourage an independent and diverse media”<sup>366</sup> and that attacks on persons “because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life, and killing” are incompatible with Article 19.<sup>367</sup> The Committee specifically noted that “[j]ournalists are frequently subjected to such threats, intimidation and attacks because of their activities”, as are persons who gather, analyse or publish information on human rights issues.<sup>368</sup> It stated that states should “put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression”,<sup>369</sup> and has previously held that States parties should “vigorously” investigate such attacks “in a timely fashion,” prosecute the perpetrators, and ensure appropriate redress for victims or their representatives.<sup>370</sup>
196. Articles 19(3) and 20 of the ICCPR set out the limited circumstances when States parties may restrict the right to freedom of expression. Article 19(3) permits States parties to restrict freedom of expression for respect of the rights or reputation of others or to protect national security, public order, public health, or morals, but only where such restrictions “are provided by law and are necessary”. However, this Committee has specifically noted that paragraph 3 may never be invoked “as a justification for the muzzling of any advocacy of ... democratic tenets and human rights.”<sup>371</sup> Article 20 requires States to prohibit war propaganda and advocacy of “national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”. States that assert one of these grounds for restricting freedom of expression must demonstrate “the precise nature of the threat” and “the necessity and proportionality of the specific action taken”.<sup>372</sup>

Violation of Ms. Muradova’s Rights under Articles 9 and 19 as a Journalist and Human Rights Defender

197. Turkmenistan arbitrarily arrested, mistreated and killed Ms. Muradova to end – and to punish her for – her work as a journalist and human rights activist, in violation of her freedom from arbitrary arrest under Article 9, and her freedom of expression under Article 19.
198. The circumstances leading to Ms. Muradova’s arrest show that the Turkmen authorities targeted her because of her human rights activism and journalism. As described above (see paras. 25-26, above), officials at the Ministry of National Security repeatedly pressured her to stop the human rights activities of THF, but she refused. Turkmen authorities also harassed Ms. Muradova: they followed her, kept her apartment under surveillance, threatened to evict her from her home, and threatened to imprison her children if she did not stop contributing to RFE/RL.
199. The circumstances of Ms. Muradova’s arrest (see paras. 27-28 and 32-33, above) also show that the Turkmen authorities arrested her arbitrarily, to silence her journalism and human rights activism. Ms. Muradova’s detention was not justified by the circumstance of the case. On the contrary, it was a “public flogging” that the Turkmen government used to intimidate other activists and journalists – to chill others’ willingness to take up her work. When she was arrested, police officials sought

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<sup>365</sup> UNHRC, General Comment 34, para. 13.

<sup>366</sup> UNHRC, General Comment 34, para. 14.

<sup>367</sup> UNHRC, General Comment 34, para. 23.

<sup>368</sup> UNHRC, General Comment 34, para. 23.

<sup>369</sup> UNHRC, General Comment 34, para. 23.

<sup>370</sup> UNHRC, General Comment 34, para. 23.

<sup>371</sup> UNHRC, General Comment 34, para. 23.

<sup>372</sup> UNHRC, General Comment 34, para. 35.

access to her computer, fax and cell phone – key tools in her work as a journalist. During the governments’ television broadcast about her arrest, officials called her a traitor and condemned her work as a journalist, describing her aid to foreign media as “gathering slanderous information in order to sow discontent among the population.” They described her colleague Annakurban Amanklychev’s human rights training and association with another human rights group as “secret training methods of gathering information in order to spread discontent among the people, provoking their protests against the government”. The authorities did not mention the crime that Ms. Muradova and her colleagues were eventually charged with. They then held her almost without contact with the outside world (see paras. 34-38, above), preventing her from speaking with her family and her lawyer. They gave her minimal opportunity to speak at her trial, and closed it to the public (see paras. 39-41, above). And they persecuted Ms. Muradova’s family for trying to spread information about her death (see paras. 56-58, above).

200. The outcry following Ms. Muradova’s arrest, detention and death further shows that the Turkmen authorities targeted her to silence her human rights and journalistic work. Human Rights Watch called her arrest and conviction “politically motivated”.<sup>373</sup> Amnesty International stated that there were “strong indications” that the charges against Ms. Muradova and her colleagues were “fabricated to punish them for their human rights activities.”<sup>374</sup> The Committee to Protect Journalists made similar statements.<sup>375</sup> The UN Working Group on Arbitrary Detention found that the related detention of Ms. Muradova’s colleagues, Annakurban Amanklychev and Sapardurdy Khadzhiyev, was arbitrary because it resulted from their “exercise of their fundamental rights to freedom of expression, freedom of association and of their right to work in favour of the protection and promotion of human rights”.<sup>376</sup>
201. The Turkmen authorities mistreated and killed Ms. Muradova as part of their broader effort to silence political dissent. As is discussed above (see paras. 74-78, above), Turkmenistan has oppressed political opposition since gaining independence in 1991. This intensified in 2006, and the UN General Assembly and Secretary General expressed distress about the situation – including the arbitrary detention of political opponents and human rights defenders. By that time, the Turkmen government maintained “absolute control over information” in Turkmenistan, which included tight control of the media. In this repressive atmosphere, RFE/RL was regarded as the “only independent source of news and information in Turkmenistan.” The Turkmen authorities persecuted political dissidents generally, and RFE/RL journalists and their family members, in particular.
202. Turkmenistan’s treatment of Ms. Muradova had no justification at law. The denial of her rights was not necessary to ensure respect of the rights or reputations of others, or to protect public health or morals. She was not spreading war propaganda, and she was not advocating any form of hatred that could constitute incitement to discrimination, hostility or violence. She was merely attempting to expose the Turkmen government’s human rights abuses. As former Director-General of the UN Educational, Scientific and Cultural Organization (UNESCO) Koïchiro Matsuura stated in reference to Ms. Muradova’s death, “Using force to silence a journalist is an unacceptable crime

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<sup>373</sup> Exhibit 8: Human Rights Watch, “Turkmenistan: Journalist Dies in Custody,” 15 September 2006.

<sup>374</sup> Exhibit 6: Amnesty International, “Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial”, 31 August 2006.

<sup>375</sup> Exhibit 3: Committee to Protect Journalists, “Radio journalist arrested without charge or explanation”, 21 June 2006.

<sup>376</sup> Exhibit 34: Report of the Working Group on Arbitrary Detention: Addendum – *Opinions adopted by the Working Group on Arbitrary Detention*, UN Doc. A/HRC/16/47/Add.1, 2 March 2011, p. 85 para. 26.

against an individual, against the basic human right of freedom of expression and against society as a whole, which relies on media to make informed choices.”<sup>377</sup>

## **IX. REMEDIES**

203. In light of the facts and submissions above, the Author respectfully requests that the Committee:
- a) declare that Turkmenistan has violated Article 6(1) of the ICCPR as a result of the arbitrary killing of Ms. Muradova while in the custody of Turkmen authorities, and also as a result of its failures to establish safeguards against arbitrary custodial killings, to investigate such deaths and to provide an effective remedy;
  - b) declare that Turkmenistan violated Article 7 of the ICCPR as a result of its torture of Ms. Muradova, and also as a result of its failures to establish safeguards against torture – including to provide access to a lawyer and to her family and to allow independent monitoring of detention facilities, to investigate such deaths and to provide an effective remedy;
  - c) declare that Turkmenistan violated Article 9(3) of the ICCPR as a result of its failure to have her detention reviewed by a judge or other impartial officer;
  - d) declare that Turkmenistan violated Ms. Muradova’s rights under Article 14(1), (2), (3)(b), (3)(d), and (5) of the ICCPR by publicly declaring her guilt prior to trial, denying her prompt access to effective counsel including during interrogation, closing her trial to the public, and denying her a fair appeal, which resulted in a denial of justice in violation of Article 14; and
  - e) declare that Turkmenistan violated Ms. Muradova’s rights as a journalist and human rights defender, including under Articles 9(1) and 19 of the ICCPR, because her arbitrary arrest, torture, sham trial and death were designed to silence her dissenting voice and prevent her from continuing her work.
204. The Author further respectfully requests that the Committee:
- a) urge Turkmenistan to acknowledge the arbitrary nature of Ms. Muradova’s detention and the role of the State in her torture and arbitrary killing, to publish the decision of the Committee, and to issue a public apology to the family of Ms. Muradova for the violations of her rights;
  - b) urge Turkmenistan to create an independent commission of inquiry with the participation of international experts to investigate the circumstances of the detention, trial, torture and death of Ms. Muradova, with the power to initiate criminal prosecution of those found to be the material and intellectual authors;
  - c) urge Turkmenistan to provide full redress to the family of Ms. Muradova, including just compensation and other measures of restitution, satisfaction and guarantees of non-repetition, including lifting any restrictions, such as the travel ban on Ms. Muradova’s children and other members of the Author’s family;
  - d) urge Turkmenistan to introduce safeguards to prevent similar violations from happening in the future, including opening the country to domestic and international human rights monitoring; allowing international human rights NGOs and UN Special Procedures, such as the UN Special Rapporteur on Torture, to conduct investigations in Turkmenistan; allowing independent human rights NGOs to register and operate in Turkmenistan without undue interference;

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<sup>377</sup> Exhibit 85: UNESCO, “Director-General voices grave concern at the death in jail of Turkmen journalist Ogulsapar Muradova”, 18 September 2006, available at [http://portal.unesco.org/ci/en/ev.php-URL\\_ID=22800&URL\\_DO=DO\\_PRINTPAGE&URL\\_SECTION=201.html](http://portal.unesco.org/ci/en/ev.php-URL_ID=22800&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html).

allowing domestic and international monitoring of detention facilities, including by the International Committee of the Red Cross; and fulfilling its duties to protect journalists and human rights defenders and to stop the abuses against independent voices, including persecution of the families of former government employees; and

- e) urge Turkmenistan to reform its legislation and practice to ensure registration of all detainees from the moment of detention; guarantee the right of anyone in detention to be promptly brought before a judge; guarantee the right of those concerned, including relatives and friends of a detainee, to obtain information about the detention, including the reasons for and place of detention; guarantee the right of detainees to contact a lawyer of their own choosing; provide an independent and secure complaint mechanism for allegations of torture and custodial deaths that would not be overseen by the President; ensure prompt and regular medical examinations in detention; ensure prompt, regular and unimpeded private visits by family members and lawyers to those in police detention; ensure the independence of judiciary; and facilitate a free and independent media.

9 April 2013

## X. LIST OF SUPPORTING DOCUMENTS

### Witness Statement

- Exhibit 1 Statement of Annadurdy Khadzhiyev, 27 March 2013  
[English translation/Russian original]

### Government, Inter-Governmental and NGO Documents

- Exhibit 2 Turkmenistan Helsinki Foundation, Main Page, available at <http://www.tmhelsinki.org/en/>
- Exhibit 3 Committee to Protect Journalists, “Radio journalist arrested without charge or explanation”, 21 June 2006, available at <http://cpj.org/2006/06/radio-journalist-arrested-without-charge-or-explan.php>
- Exhibit 4 Amnesty International, “Global Letter Writing-Marathon 2006: Turkmenistan: Ogulsapar Muradova (f), journalist”, 5 December 2006, available at <http://www.amnesty.org/en/library/asset/EUR61/015/2006/en/328c287e-d3cf-11dd-8743-d305bea2b2c7/eur610152006en.pdf>
- Exhibit 5 Human Rights Watch, “Turkmenistan: Arrests on Eve of EU Parliament Visit – Authorities Must Immediately Release Detained Human Rights Defenders”, 20 June 2006, available at <http://www.hrw.org/en/news/2006/06/19/turkmenistan-arrests-eve-eu-parliament-visit>
- Exhibit 6 Amnesty International, “Turkmenistan: Ogulsapar Muradova, Annakurban Amanklychev, Sapardurdy Khadzhiyev – Arbitrary Detention/Fear of Torture/Unfair Trial”, 31 August 2006, available at <http://www.amnestyinternational.be/doc/actions-en-cours/les-actions-urgentes/Les-actions-urgentes-en-anglais/article/turkmenistan-ogulsapar-muradova-8731>
- Exhibit 7 Committee to Protect Journalists, “CPJ alarmed by reports of abuse in journalist’s detention”, 14 August 2006, available at <http://cpj.org/2006/08/cpj-alarmed-by-reports-of-abuse-in-journalists-det.php>
- Exhibit 8 Human Rights Watch, “Turkmenistan: Journalist Dies in Custody,” 15 September 2006, available at <http://www.hrw.org/news/2006/09/14/turkmenistan-journalist-dies-custody>
- Exhibit 9 US Embassy cable, “OSCE on the Myradova Case”, 25 August 2006, available at <http://wikileaks.org/cable/2006/08/06ASHGABAT910.html>
- Exhibit 10 Reporters sans Frontieres, “Muradova died under torture in high-security prison at least four days before her family was told”, 20 September 2006, available at <http://en.rsf.org/turkmenistan-muradova-died-under-torture-in-20-09-2006,18938.html>
- Exhibit 11 Turkmenistan Helsinki Foundation, “The Journalist Sent on Stage”, 28 August 2006, available at <http://www.tmhelsinki.org/ru/modules/news/article.php?storyid=164>  
[English translation/Russian original]
- Exhibit 12 Turkmenistan Helsinki Foundation, “In Ashgabat jail Amanklychev and Khajiev are inhumane treatment”, 28 July 2006, available at <http://www.tmhelsinki.org/ru/modules/news/article.php?storyid=17>  
[English translation/Russian original]

- Exhibit 13 Amnesty International, Bulgarian Helsinki Committee, Donetsk Memorial, Human Rights Watch, International Helsinki Federation, Reporters sans Frontieres, Turkmenistan Helsinki Foundation, Turkmenistan Initiative, “Turkmenistan: Open letter from a coalition of human rights organizations”, 18 July 2006, available at <http://www.amnesty.org/en/library/asset/EUR61/010/2006/en/26326ed3-d40f-11dd-8743-d305bea2b2c7/eur610102006en.html>
- Exhibit 14 Committee to Protect Journalists, “RFE/RL reporter sentenced to six years jail in secret trial”, 25 August 2006, available at <http://cpj.org/2006/08/rferl-reporter-sentenced-to-six-years-jail-in-secr.php>
- Exhibit 15 FIDH, “Harassment against the family of Mrs. Ogulsapar Muradova”, 31 October 2006, available at <http://www.fidh.org/Arbitrary-detentions-Harassment>
- Exhibit 16 BBC News, “Journalist dies in Turkmen jail”, 14 September 2006, available at <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/asia-pacific/5346114.stm>
- Exhibit 17 Turkmenistan Helsinki Foundation, “Amnesty International: Ogulsapar Muradova died in custody”, 14 September 2006, available at <http://www.tmhelsinki.org/en/modules/news/print.php?storyid=4>
- Exhibit 18 US Embassy cable, “Myradova Dies In Prison, Circumstances Unknown” 14 September 2006, available at <http://wikileaks.org/cable/2006/09/06ASHGABAT963.html>
- Exhibit 19 Human Rights Watch, Freedom Now, and the Turkmen Initiative for Human Rights, “Turkmenistan Universal Periodic Review Submission”, 5 October 2012, available at <http://www.hrw.org/news/2012/10/05/turkmenistan-universal-periodic-review-submission>
- Exhibit 20 Committee to Protect Journalists, “Ogulsapar Muradova – Radio Free Europe/Radio Liberty”, September 2006, available at <http://cpj.org/killed/2006/ogulsapar-muradova.php>
- Exhibit 21 US Embassy cable, “Government of Turkmenistan Refuses to Make Public Myradova Autopsy”, 18 September 2006, available at <http://wikileaks.org/cable/2006/09/06ASHGABAT987.html>
- Exhibit 22 US Embassy cable, “Myradova Trial Concludes with Six-Year Sentence”, 25 August 2006, available at <http://wikileaks.org/cable/2006/08/06ASHGABAT911.html>.
- Exhibit 23 FIDH, *Alternative Report on the Human Rights Situation in Turkmenistan for the Universal Periodic Review*, 2008, available at [http://www.fidh.org/IMG/pdf/Alternative\\_report\\_Turk\\_UPR\\_eng.pdf](http://www.fidh.org/IMG/pdf/Alternative_report_Turk_UPR_eng.pdf)
- Exhibit 24 Norwegian Helsinki Committee, “Submission from the Norwegian Helsinki Committee: Universal Periodic Review of Turkmenistan”, October 2012, available at <http://nhc.no/filestore/Dokumenter/FN/TurkmenistanUPR20122.pdf>
- Exhibit 25 Human Rights Watch, *World Report 2012: Turkmenistan*, January 2012, available at [http://www.hrw.org/sites/default/files/related\\_material/turkmenistan\\_2012\\_0.pdf](http://www.hrw.org/sites/default/files/related_material/turkmenistan_2012_0.pdf)
- Exhibit 26 Amnesty International, *Annual Report 2012 – Turkmenistan*, available at <http://www.amnesty.org/en/region/turkmenistan/report-2012>
- Exhibit 27 United States Department of State, *2011 Country Reports on Human Rights Practices – Turkmenistan*, 24 May 2012, available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=publisher&docid=4fc75a538&skip=0&am>

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&sort=date](http://www.usdos.gov/publisher=USDOS&querysi=turkmenistan&searchin=title&display=10&sort=date)

- Exhibit 28 Human Rights Watch, “Democratization and Human Rights in Turkmenistan: Commission on Security and Cooperation in Europe of the United States House of Representatives Hearing”, 21 March 2000, available at <http://www.hrw.org/news/2000/03/20/democratization-and-human-rights-turkmenistan>
- Exhibit 29 Human Rights Watch, “Bulgaria: Do Not Extradite Turkmen Dissident”, 12 April 2007, available at <http://www.hrw.org/news/2007/04/11/bulgaria-do-not-extradite-turkmen-dissident>
- Exhibit 30 Memorial, “Turkmenistan /Russia / Bulgaria: Annadurdy Kadjiev released on bail by the decision of the Bulgarian court”, 1 December 2002, available at <http://www.memo.ru/d/277.html> [English translation/Russian original]
- Exhibit 31 Memorial, “The practice of taking hostages sanctioned by head of state”, 2003, available at <http://www.bulletin.memo.ru/b27/page104.html> [English translation/Russian original]
- Exhibit 32 Human Rights Watch, “Turkmenistan: Dissident’s Father Sent into Internal Exile”, 4 September 2003, available at <http://www.hrw.org/news/2003/09/03/turkmenistan-dissident-s-father-sent-internal-exile>
- Exhibit 33 Committee to Protect Journalists, *Attacks on the Press 2006: Turkmenistan*, 5 February 2007, available at <http://cpj.org/2007/02/attacks-on-the-press-2006-turkmenistan.php>
- Exhibit 34 *Report of the Working Group on Arbitrary Detention: Addendum – Opinions adopted by the Working Group on Arbitrary Detention*, 2 March 2011, UN Doc. A/HRC/16/47/Add.1, available at [http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.47.Add.1\\_AE\\_V.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.47.Add.1_AE_V.pdf) [evidence binder contains only the pertinent part]
- Exhibit 35 Human Rights Watch, *World Report 2007: Turkmenistan*, 11 January 2007, available at <http://www.unhcr.org/refworld/topic,4565c22532,4565c25f3f5,45aca2a820,0,,TKM.html>
- Exhibit 36 FIDH, “Death in detention of Mrs. Ogulsapar Muradova”, 15 September 2006, available at <http://www.fidh.org/Death-in-detention-of-Mrs>
- Exhibit 37 Al Jazeera, “Turkmen reporter’s death ‘disturbs’ UN”, 16 September 2006, available at <http://www.aljazeera.com/archive/2006/09/2008410142537490523.html>
- Exhibit 38 Amnesty International, “Turkmenistan: Further information on Arbitrary detention/Fear of torture,” 14 September 2006, available at <http://www.amnesty.org/en/library/asset/EUR61/013/2006/en/90e87603-d3f3-11dd-8743-d305bea2b2c7/eur610132006en.html>
- Exhibit 39 Amnesty International, “Take action to carry human rights along the silk route in Central Asia!”, June 2010, available at <http://www.amnesty.org/en/library/asset/EUR04/001/2010/en/560c64a9-6a85-4e6c-b519-0daa64ed75e1/eur040012010en.pdf>
- Exhibit 40 Amnesty International, “Key human rights challenges facing Turkmenistan,” 10 February 2012, available at <http://www.amnesty.org/en/library/asset/EUR61/002/2012/en/63ec1ff6-3377-40ff-a198-196c1f4c88b5/eur610022012en.pdf>



- Exhibit 41 Human Rights Watch, “Turkmenistan: Journalist Dies in Custody: Authorities Must Permit Independent Forensic Examination,” 14 September 2006, available at <http://www.hrw.org/en/news/2006/09/14/turkmenistan-journalist-dies-custody>
- Exhibit 42 Human Rights Watch, “Letter to President Gurbanguly Berdymukhamedov regarding human rights concerns in Turkmenistan”, 12 March 2009, available at <http://www.hrw.org/en/news/2009/03/12/letter-president-gurbanguly-Berdymukhamedov-regarding-human-rights-concerns-turkmeni>
- Exhibit 43 Reporters sans Frontieres, “Journalist Ogulsapar Muradova Dies Violently In Prison,” 14 September 2006, available at <http://en.rsf.org/turkmenistan-journalist-ogulsapar-muradova-dies-14-09-2006.18863.html>
- Exhibit 44 Committee to Protect Journalists, “RFE/RL reporter dies in prison,” 14 September 2006, available at <http://cpj.org/2006/09/rferl-reporter-dies-in-prison.php>
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