

TURKMENISTAN

Mukhametkuli Aymuradov and Khoshali Garayev

Possible Prisoners of Conscience

On 10 December 1998 possible prisoners of conscience Mukhametkuli Aymuradov and Khoshali Garayev, already serving 15 and 12-year sentences respectively in a maximum security prison in Turkmenistan, were sentenced to an additional 18 years' imprisonment. The new sentences related to an alleged prison escape attempt in October the same year. There have been credible and persistent allegations that the escape attempt was orchestrated by the authorities to avoid the possibility of Mukhametkuli Aymuradov and Khoshali Garayev being transferred, under their previous sentence, from a maximum security regime to a less restrictive one. (Under their new sentence, they must now spend five more years under conditions of maximum security.)

Following their conviction in 1995 for crimes including plotting to assassinate the President of Turkmenistan, Amnesty International took up the case of Mukhametkuli Aymuradov and Khoshali Garayev for investigation, calling on the Turkmen authorities to conduct a judicial review of their case. There was no evidence available that Mukhametkuli Aymuradov and Khoshali Garayev had used or advocated violence, and the organization felt that there was compelling circumstantial evidence to support allegations that the two had been punished solely because of their association with exiled opponents of the Government of Turkmenistan. Now, some three years on, Amnesty International considers that there are grounds to believe that with these new sentences Mukhametkuli Aymuradov and Khoshali Garayev are again being punished for their perceived opposition to President Niyazov. The organization is therefore now calling for the new convictions also to be re-examined.

THE PROSECUTION OF MUKHAMETKULI AYMURADOV AND KHOSHALI GARAYEV, POSSIBLE PRISONERS OF CONSCIENCE, IN 1998



At the end of November 1998 Amnesty International learned that Mukhametkuli Aymuradov, a 52-year-old Turkmen businessman formerly resident in Russia, and Khoshali Garayev, a 36-year-old Russian citizen of Turkmen origin, were about to stand trial in Turkmenistan on new charges. Both were already serving sentences of 15 and 12 years respectively in Krasnovodsk maximum security prison after being found guilty in 1995 of anti-state crimes including plotting to assassinate the President of Turkmenistan. Amnesty International had been calling for the 1995 convictions to be reconsidered, fearing that the charges against Mukhametkuli Aymuradov and Khoshali Garayev had been fabricated and that the men

were being punished solely because of their association with exiled opponents of the government of Turkmenistan.

Apparently, the new criminal investigation against Mukhametkuli Aymuradov and Khoshali Garayev started in mid-October 1998 following an alleged escape attempt. Close family members were not informed until the end of November that Mukhametkuli Aymuradov and Khoshali Garayev were facing new charges. These included one of conspiring to seize power (Article 174 part 2 of the Turkmen Criminal Code) which carried a possible death penalty, and others of attempting to escape from prison and assaulting a prison officer. During the investigation a lawyer assigned to Mukhametkuli Aymuradov had some, limited access to him and it is believed that Khoshali Garayev also had the services of a lawyer.

It was originally reported that the new trial would be held on 30 November 1998 in a closed court in the maximum security prison at Krasnovodsk where the two were serving their sentences, and that only the prisoners' lawyers would be allowed access. However, after concern was expressed by foreign diplomats and international human rights organizations (including Amnesty International through its Urgent Action network), the trial was twice postponed. It eventually opened on 7 December before the Supreme Court, which sat in Krasnovodsk. The Second Secretary of the United States Embassy in Ashgabat was allowed to attend the trial, as was the wife of Mukhametkuli Aymuradov. Charges of a political nature, notably under Article 174, had been dropped from the charge sheet which was handed to the defendants' lawyers, reportedly only ten minutes before the trial was due to start.

No Russian representative attended the trial (Khoshali Garayev is a Russian citizen); the Russian authorities reportedly made no intervention on the grounds that with the dropping of the "political" charge they had no special reason to act.

On 10 December 1998 (incidentally, the 50th anniversary of the signing of the Universal Declaration of Human Rights) Mukhametkuli Aymuradov and Khoshali Garayev were sentenced to an additional 18 years' imprisonment, five years to be spent in a maximum security prison. The charges included "Disrupting the normal working of a penal institution" under Article 213 of the Turkmen Criminal Code, part 2 of which carries a maximum 20-year sentence¹.

¹**Article 213: Disrupting the normal working of a penal institution**

(1) Use of force against prison or detention centre personnel by a person serving a prison sentence or in detention, also use of force by such a person against a prisoner with the aim of impeding his correction or out of revenge for their carrying out their social duties,

punishable by deprivation of liberty from 3 to 8 years.

(2) The same activities committed more than once, by a group acting on prior agreement or an organized group or with use of force detrimental to health or life,

punishable by deprivation of liberty for a period from 10 to 20 years.

Other articles under which Mukhametkuli Aymuradov and Khoshali Garayev were found guilty reportedly related to participation in an escape attempt and attacking a prison guard.

Mukhametkuli Aymuradov and Khoshali Garayev are believed to be appealing to the Presidium of the Supreme Court. As the case was heard by the Supreme Court as the court of first instance, this is the last route of appeal. At the time of writing, no date had been set for their appeal.

The alleged escape attempt

Around the time of the alleged escape attempt Khoshali Garayev was reportedly told -- it is not clear whether by inmates or someone from the prison authorities -- that his son had been killed in Moscow (which was not true.) He was said to have been beside himself with grief. On the night of 10/11 October 1998, the cell in which Khoshali Garayev was held was reportedly left unlocked; according to one version, some cellmates "discovered by chance" that the cell was not locked. Four other cells were apparently also unlocked, including the one where Mukhametkuli Aymuradov was detained. Khoshali Garayev left his cell with some of his fellow prisoners and allegedly assaulted a prison guard in the corridor outside. Someone apparently came to Mukhametkuli Aymuradov's cell, woke him up and told him he must leave the cell. About 10 prisoners were said to be involved in the incident, none of whom escaped further than the corridor.

Initially, the escape attempt was described as part of a plot, hatched in prison by Mukhametkuli Aymuradov and Khoshali Garayev, to remove President Niyazov from power. Unofficial sources allege that the escape attempt was orchestrated by the authorities to provide a pretext for keeping Mukhametkuli Aymuradov and Khoshali Garayev in conditions of maximum security, and that they would otherwise have been due for consideration for transfer to a less restrictive regime on the grounds of good behaviour. There is an interesting parallel with an escape attempt by Mukhametkuli Aymuradov while awaiting trial in early 1995 (see below). This also attracted allegations that it had been orchestrated by the authorities, on that occasion in order to justify his continued pre-trial detention.

Mukhametkuli Aymuradov and Khoshali Garayev are now again held in a maximum security prison, which means that they are confined to cells and subject to severe restrictions on their rights to visits and correspondence.

THE PROSECUTION OF MUKHAMETKULI AYMURADOV AND KHOSHALI GARAYEV IN 1994

Mukhametkuli Aymuradov and Khoshali Garayev were arrested on or around 28 October 1994 by officers of the Turkmen Committee for National Security (KNB) in

Tashkent, the capital of Uzbekistan, and immediately deported to Turkmenistan. In June 1995 they stood trial in the Supreme Court of Turkmenistan, which found them guilty of offences including "attempted terrorism" and "organizing anti-state crimes". Mukhametkuli Aymuradov was sentenced to 15 years' imprisonment and Khoshali Garayev to 12 years' imprisonment.

Two former colleagues of Mukhametkuli Aymuradov -- Bayram Vellekov and Yevgeniya Starikova, residents of the Turkmen capital Ashgabat -- stood trial with him and Khoshali Garayev. They were charged with having failed to hand over Mukhametkuli Aymuradov to the authorities while he was on the run after escaping from pre-trial detention. They were found guilty of "concealing a crime" and each sentenced to two years' imprisonment. Amnesty International believes that they were also possible prisoners of conscience, based on the fact that the reasons behind the arrest and prosecution of Mukhametkuli Aymuradov may have been bogus and his detention therefore illegitimate, and also that sources alleged that his "crime" of escaping from detention was an entrapment orchestrated by the authorities to provide further grounds to prosecute him. Bayram Vellekov and Yevgeniya Starikova were released in December 1995 under a limited prisoner amnesty.

The origins of the case of Aymuradov and Garayev

On this occasion the authorities claimed that Mukhametkuli Aymuradov and Khoshali Garayev were in Tashkent as part of a plot, orchestrated by Turkmen exiles in Russia, to assassinate President Saparmurad Niyazov and senior government ministers. It was alleged that they had been involved in the purchase of firearms and explosives.

According to family members, the two men were in Tashkent on legitimate commercial business. Mukhametkuli Aymuradov had agreed to help Khoshali Garayev to set up a business exporting onions from Tashkent to Moscow as a favour to Abdy Kuliyeu, the former Minister of Foreign Affairs of Turkmenistan in exile in Moscow². Khoshali Garayev, who had lived in Moscow for seven years, knew Abdy Kuliyeu quite well. Mukhametkuli Aymuradov, who had only lived in Moscow for two years, merely knew Abdy Kuliyeu as a fellow member of the Turkmen community in Moscow, but was happy to offer his expertise to help a younger Turkmen out. Mukhametkuli Aymuradov and Khoshali Garayev had not really been acquainted before their business venture in Tashkent.

An unofficial source associated with Mukhametkuli Aymuradov and Khoshali Garayev gave Amnesty International a third explanation. According to this version, the story behind their case began in August 1994, when members of the Turkmen political opposition living in exile in Russia formed a plan to organize a peaceful mass

²Abdy Kuliyeu resigned his ministerial post in 1992 and fled to Russia, where he became a leading figure in the exiled opposition to President Niyazov.

anti-government protest in Ashgabat. The chosen date was to be at the end of October 1994, and Turkmen exiles had arranged to rendezvous in Tashkent before travelling to Ashgabat to participate in the demonstration. (No demonstration took place in Ashgabat at the end of October. According to the source of the story about the planned demonstration, the organizers called it off on receiving news of the arrest of Mukhametkuli Aymuradov and Khoshali Garayev.)

Arrest and extradition from Russia of Aymuradov and Garayev in October 1994

On 4 October 1994 a leading figure in the Turkmen exiled opposition, Murad Yesenov, was attacked on a street in Moscow, the Russian capital, by a group of men believed to have been from the Turkmen KNB. They knocked him unconscious and stole his briefcase, which included an address book containing the names of his associates. Apparently as a consequence of this, on 20 October an associate of Murad Yesenov's, "Chary" (not his real name, which is being withheld at his request), was detained at his home in Ashgabat by KNB agents. He was held without charge for over two weeks, during which time he was reportedly tortured: he was allegedly severely beaten and on several occasions forcibly given injections, including pain-inducing injections in the back of his neck. Upon his release he was placed under house arrest.

Allegedly, from information obtained from "Chary" the KNB learned that Mukhametkuli Aymuradov and Khoshali Garayev were in Tashkent. On or around 28 October (sources vary) Mukhametkuli Aymuradov and Khoshali Garayev were arrested by Turkmen KNB officers acting in cooperation with their Uzbek counterparts. The same day, they were flown back to Turkmenistan, without having been given an opportunity to appear before a court or any other tribunal and present arguments against their deportation. Reportedly, no arrest warrant was presented; unofficial sources claim that a warrant was not even written until a week after the arrest. On arrival in Ashgabat they were placed in detention in the investigation-isolation prison of the KNB headquarters.

Related arrests in Moscow in 1994

On 24 November 1994, officers of the Russian Federal Security Service (FSB) arrested Murad Yesenov. The arrest order was signed by the acting Procurator General of the Russian Federation, who was responding to a request by his counterpart in Turkmenistan.

The following day FSB officers also arrested Murad Yesenov's associate Khalmurad Soyunov, formerly a local government leader and member of parliament in Turkmenistan, who was visiting Moscow from his home in self-imposed exile in the Russian city of Nizhniy Novgorod. They were held at the Petrovka detention centre in Moscow, where they were informed that they were being investigated for "preparing terrorist acts", plotting to overthrow the Government of Turkmenistan, and illegally purchasing

weapons. Khalmurad Soyunov was told that he was being investigated additionally for corruption and for sexual harassment of a former colleague in Turkmenistan.

Three weeks after their arrest Murad Yesenov and Khalmurad Soyunov were questioned by a procurator from Turkmenistan. Murad Yesenov was accused of leading a terrorist organization, and Khalmurad Soyunov was accused of being his deputy. Authorities in Turkmenistan reportedly sought their extradition. However, on 21 December the Russian authorities bowed to domestic and foreign pressure and released Murad Yesenov and Khalmurad Soyunov from custody pending further investigation of the charges against them.

On 3 January 1995 newspapers in Turkmenistan published an interview with the deputy head of the investigations department at the Turkmen KNB, who was leading the investigation of the alleged assassination plot. In it he stated categorically that "as the person who carried out the investigation and who was informed of all the circumstances of the planned crime I do not have any doubts that the criminal case of Yesenov and Soyunov and the case of their accomplices Aymuradov and Garayev are links in a single chain, and [these cases] must be combined".

Meanwhile, an investigator from the procuracy in Moscow who was despatched to Ashgabat to interview witnesses subsequently ruled that there was insufficient evidence against Murad Yesenov and Khalmurad Soyunov. On 20 February 1995 the criminal case against them in Russia was formally dropped for lack of evidence. Both men have since been given political asylum in Sweden.

Aymuradov, Garayev and others on trial in 1995

Mukhametkuli Aymuradov, Khoshali Garayev, Bayram Vellekov and Yevgeniya Starikova went on trial on 12 June 1995 in the Judicial Collegium for Criminal Cases at the Supreme Court of Turkmenistan. The trial was reportedly held *in camera*. Mukhametkuli Aymuradov and Khoshali Garayev were charged under Article 15/64 of the Turkmenistan Criminal Code - "attempted terrorist act", and Article 70 - "organizational activity directed towards the commission of especially dangerous anti-state crimes, and participation in an anti-government organization". In addition Khoshali Garayev was charged with large-scale extortion (Article 159, part 3) and Mukhametkuli Aymuradov was charged with "escaping from a place of confinement" (Article 209). Bayram Vellekov and Yevgeniya Starikova were charged with "concealment of a crime" (Article 214) for having failed to turn Mukhametkuli Aymuradov in to the authorities following his escape.

Mukhametkuli Aymuradov's 1995 escape attempt

According to unofficial sources the escape happened in February or March 1995 and was, according to a commentary on the case in the Kazak newspaper *Karavan-blitz* the one and only escape from the KNB investigation-isolation prison in its entire history,

including the Soviet period. Sources alleged to Amnesty International that the escape was orchestrated by the authorities. It happened just as Aymuradov's lawyers were preparing to go to court for a hearing into the first charges brought against him. They had reportedly spent nine months looking into these first charges and had not found any evidence against their client that they believed would stand up in court. They were convinced that he would be released following this hearing because of "guilt not proven". They believed that the authorities needed to come up with other charges in order to keep Aymuradov in detention, and that the escape was a timely and convenient device to delay the court hearing and bring new irrefutable charges against him.

The sources have variously claimed that prisoners who were working for the KNB were assigned to the same cell as Mukhametkuli Aymuradov and recruited him to an "escape plan", and that cell doors were mysteriously left unlocked. Mukhametkuli Aymuradov was reportedly at liberty for several days following the escape, spending most of this time at the Ashgabat home of his sister's former husband, Orazov (his first name is not known to Amnesty International). However, Orazov appeared at the trial as a witness rather than a defendant, and sources have implied that he agreed to testify against Mukhametkuli Aymuradov to escape prosecution himself. The sources noted the contrast between the treatment of Orazov and of Yevgeniya Starikova, who was prosecuted after having sheltered Mukhametkuli Aymuradov in her home for only 20 minutes. There is nothing in the information available to Amnesty International to suggest that violence was used in this failed escape attempt.

It was reportedly later confirmed by the criminal prisoners who escaped with Mukhametkuli Aymuradov that the whole operation had been set up by the authorities and that the prisoners had been promised shorter prison terms if they complied with the plan. When Mukhametkuli Aymuradov and his cell-mates were later apprehended, they testified that Mukhametkuli Aymuradov had told them during the escape that he was a terrorist and that he was planning to assassinate the President. However, during the trial all of them withdrew their testimony and stated that they had been forced to incriminate Mukhametkuli Aymuradov. Despite this, the presiding judge reportedly declared that he could not accept their second testimony and based Mukhametkuli Aymuradov's sentence on the prisoners' first, allegedly false, testimony. It is also said that one of the prisoners in Mukhametkuli Aymuradov's cell was a "collaborator", ie worked for the KNB, and had been placed there deliberately to exert pressure on Mukhametkuli Aymuradov. This collaborator reportedly mysteriously disappeared during the escape and was not apprehended later.

The extortion charge against Khoshali Garayev

This charge related to a criminal case which the Turkmen authorities had originally tried to bring against Abdy Kuliyevev (see above). Abdy Kuliyevev had been accused of extorting a large sum of money from a German businessman of ethnic Turkmen origin; Khoshali Garayev was accused of having been an accessory to this. The

Turkmen authorities claimed that their discovery of the crime and the impending arrest of Abdy Kuliyeu had been the motive for his flight from Turkmenistan, but Abdy Kuliyeu and his supporters maintained that the allegations had been concocted to discredit him. In February 1995 it had been announced from the office of the Russian Federation Procurator General that there was no intention of instituting criminal proceedings into the alleged extortion. Reporting this, the Kazak newspaper *Karavan-Blitz* noted that the Russian Procuracy alone had the right to institute proceedings in this case, since the alleged extortion had taken place in Russia, not Turkmenistan.

Conclusion of the trial in June 1995

The trial concluded on 21 June 1995, when all four defendants were found guilty as charged. Mukhametkuli Aymuradov was sentenced to 15 years' and Khoshali Garayev to 12 years' imprisonment, to be served in a strict regime corrective labour colony. Bayram Vellekov and Yevgeniya Starikova were each sentenced to two years' imprisonment in an ordinary regime corrective labour colony.

Before the trial, the Russian authorities reportedly lodged protests on behalf of Khoshali Garayev because of his Russian citizenship. According to the Russian newspaper *Trud*, the principal Russian objection was that he had been arrested "on the territory of a third state... and forcibly brought to Ashgabat without these actions having been agreed with Russia". The newspaper continued: "This, in the opinion of the Russian side, is grossly at variance with Turkmenistan's laws and its international obligations to abide by juridical-legal norms". Russia's Ambassador to Turkmenistan was quoted on 30 June by the Russian newspaper *Izvestiya* as saying: "It is obvious that the goal of the action undertaken by the Turkmen side is not so much to hold Garayev himself liable as to try by every possible means to find proof of the existence of some sort of terrorist group on Turkmenistan's territory."

AMNESTY INTERNATIONAL'S CURRENT POSITION ON THE CASE OF MUKHAMETKULI AYMURADOV AND KHOSHALI GARAYEV

Amnesty International feels that there is strong evidence to suggest that Mukhametkuli Aymuradov and Khoshali Garayev are being punished solely because of their association with exiled opponents of the Government of Turkmenistan. The organization is continuing to call for the Turkmen authorities to conduct a judicial review of the 1995 conviction of Mukhametkuli Aymuradov and Khoshali Garayev and is now also calling for a review of the 1998 convictions. The organization is, in addition, concerned for the health of Mukhametkuli Aymuradov, who last year received hospital treatment for a variety of complaints. He has suffered, among others, from inflammation of the kidneys and bladder and has a gastric ulcer.

