

**EXTERNAL**

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**Topchubek TURGUNALIYEV**

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**KYRGYZSTAN**

Topchubek Turgunaliyev, a leading opposition activist and former prisoner of conscience in Kyrgyzstan, was sentenced on 8 January 1997 by a court in Bishkek, the capital of Kyrgyzstan, to 10 years' imprisonment after being convicted of "theft of state property" and "abuse of authority". Amnesty International is concerned that this charge may have been without legitimate foundation and that Topchubek Turgunaliyev may have been subjected to criminal prosecution for political reasons to punish him for his non-violent opposition activities. Amnesty International believes that Topchubek Turgunaliyev may once again be a prisoner of conscience. It is calling on authorities in Kyrgyzstan to provide an explanation of the basis for the criminal prosecution of Topchubek Turgunaliyev.

*The charge against Topchubek Turgunaliyev*

The case against Topchubek Turgunaliyev concerns events which took place in 1994, when he was rector of the University of Humanities in Bishkek. He was accused, along with the university's commercial director Timur Stamkulov, of having embezzled US\$10,000 from university funds. Topchubek Turgunaliyev's lawyer does not deny that his client authorized a payment of this amount to Timur Stamkulov for the development of business ventures, but asserts that this was done legally and that the initial decision to do this had been made by the university's governing body. Topchubek Turgunaliyev left his post as rector later in 1994.

A case was opened in 1995 against Topchubek Turgunaliyev and Timur Stamkulov under Article 88-1 ("theft of state or social property on an especially large scale") and Article 177 ("abuse of authority or of official position"). The investigation was reportedly dropped during 1995 for lack of evidence, but was reopened in 1996, and a trial date was eventually set for 5 December 1996. However, on that date Topchubek Turgunaliyev's lawyer was unwell and a postponement was granted by the judge, Dzhamal Nogoibayeva, with no new date being set.

*Events leading up to the arrest of Topchubek Turgunaliyev*

Topchubek Turgunaliyev is Co-Chairman of the *Erkin Kyrgyzstan* ("Free Kyrgyzstan")

opposition party and in late 1996 he was one of the people behind an initiative to set up a new opposition movement called "For Deliverance from Poverty". On 17 December 1996,

in advance of the formal launch of this new movement, he was one of the organizers of a demonstration which took place outside the government headquarters in Bishkek by people protesting about low pensions and the loss of their savings in state banks, and was one of the people admitted to the building to represent the demonstrators in a meeting with Prime Minister Apas Dzhumagulov.

After leaving the government headquarters following this meeting Topchubek Turgunaliyev was detained by police on the street outside. The Bishkek city prosecutor later stated that Topchubek Turgunaliyev had been detained because he had refused to present himself at his rescheduled trial hearing the previous day, 16 December. However, it has been reported that on 16 December Topchubek Turgunaliyev had received a telephone call from judge Baktygul Abdymomunov, who had been appointed to take over the case, summoning him to the court. It has been claimed that only on presenting himself at the court was Topchubek Turgunaliyev told that his trial would begin that same day. Topchubek Turgunaliyev rejected this on the grounds that neither he nor his lawyer had been notified in advance.

After Topchubek Turgunaliyev's arrest he was detained at the Bishkek city police department. His lawyer claims that he was not allowed to see Topchubek Turgunaliyev until 21 December. It was also alleged that Topchubek Turgunaliyev was denied visits from his family.

Topchubek Turgunaliyev went on trial in the Bishkek City Court on 25 December 1996 along with another defendant, Timur Stamkulov. Despite testimony from witnesses including the Accountant General of the Humanities University, who reportedly testified that the University had no financial claims against Topchubek Turgunaliyev, both men were found guilty on 8 January 1997. Topchubek Turgunaliyev was sentenced to 10 years' imprisonment and confiscation of his property (the state prosecutor had called for a sentence of 12 years' imprisonment). Timur Stamkulov was sentenced to 6 years' imprisonment. An appeal against these sentences is being prepared by defence lawyers for submission to the Supreme Court.

*Related events involving the movement "For Deliverance from Poverty", including arrests*

The founding congress of the movement "For Deliverance from Poverty" went ahead in Bishkek on 21 December, despite obstacles including the sudden closure of the pre-arranged venue for "repairs". Topchubek Turgunaliyev was elected in his absence as one of three co-chairmen. After the congress, several of the participants were detained by police. All were released later the same day except Dzhumagazy Usupov, Chairman of the opposition *Ashar* society, who was sentenced on 25 December to 15 days' administrative arrest for "organizing an unsanctioned meeting", apparently because permission had not been sought in advance to use the venue, a sports arena, to which the congress had been moved at short notice.

*About Topchubek Turgunaliyev - Topchubek Turgunaliyev as a former prisoner of conscience*

Topchubek Turgunaliyev is 55 years old. As well as being a former rector of the Humanities University he is also a former Director of the State Opera of Kyrgyzstan. In 1990 he was a founding member of the Democratic Movement of Kyrgyzstan, an umbrella organization uniting the opposition to the Communist regime. Initially a supporter of

President Askar Akayev, Topchubek Turgunaliyev later became one of his most outspoken critics.

Topchubek Turgunaliyev was previously recognized by Amnesty International as a prisoner of conscience after he had been arrested in December 1995, along with Dzhumagazy Usupov, and charged with "defamation", "insult" and "inflaming national discord or hatred" in connection with their alleged possession and distribution during Kyrgyzstan's 1995 presidential election campaign of leaflets critical of President Akayev, who was running for and subsequently won re-election (Topchubek Turgunaliyev and Dzhumagazy Usupov had been involved in organizing the campaign of one of the rival presidential candidates). Amnesty International argued that the bringing of criminal charges of "defamation" and "insult" constituted a violation of the fundamental human rights of Topchubek Turgunaliyev and Dzhumagazy Usupov to freedom of expression. It argued that while all persons who believe themselves to have been the victims of defamation have a right to seek redress through the courts, it is widely recognized that public officials should expect to be subjected to a greater degree of public criticism than other individuals, and that the degree of restriction permitted to protect an individual's reputation should be more limited in the case of a public official than a private person. Therefore, in Amnesty International's view public officials or authorities who consider themselves defamed should be able to seek redress through civil laws in order to protect their reputation.

Information from unofficial sources also cast doubt on the legitimacy of the allegation of "inflaming national discord of hatred".

Topchubek Turgunaliyev and Dzhumagazy Usupov spent four months in detention in the town of Karakol. They were tried on 17-19 April 1996 in the Issyk-Kul Regional Court, found guilty, and given one-year suspended sentences. They were released immediately.

For further information about this and other prosecutions for defamation of officials in Kyrgyzstan see the Amnesty International report *Kyrgyzstan: a tarnished human rights record* (AI Index: EUR 58/01/96), published in May 1996).

*Suspicious of a political motive behind the latest prosecution of Topchubek Turgunaliyev*

Amnesty International is concerned that a number of circumstances surrounding the criminal prosecution of Topchubek Turgunaliyev give rise to suspicion that the prosecution is without legitimate foundation and has been brought for political reasons. Specifically, Amnesty International notes that the arrest of Topchubek Turgunaliyev on 17 December 1996 took place immediately after he had taken part in an act of political protest and shortly before he was to have been involved in the founding congress of a new opposition political movement. Amnesty International notes further that the arrest and prosecution of Topchubek Turgunaliyev occurred only months after his release following his trial on a charge of defaming the President of Kyrgyzstan, a charge which attracted international criticism as a violation of Topchubek Turgunaliyev's human rights and an abuse of criminal legislation. Finally, Amnesty International notes that the alleged crime of embezzlement and abuse of authority predates the defamation case, an investigation having been opened in 1995 but later suspended and apparently not actively pursued again until after Topchubek Turgunaliyev's release from prison after the defamation trial.