



On Forced Disappearances in Turkmenistan and the Case of Boris Shikhmuradov

Statement by Prove They Are Alive! Campaign

11 November 2015

“Prove They Are Alive!” campaign expresses its strong disappointment and regret at the failure of the government of Turkmenistan to provide a substantive reply to the United Nations Human Rights Committee on its decision on the case of Boris Shikhmuradov within the period established by the Committee. We urge the Turkmen government to provide a reply to the United Nations and Shikhmuradov’s family without any further delay and take immediate measures to remedy violation of the rights of Shikhmuradov and his family, which Turkmenistan is obligated to implement, according to the Committee’s decision.

On 17 October 2014, the U.N. Human Rights Committee issued a decision regarding violation of the rights of former Turkmen Foreign Minister Boris Shikhmuradov, who in 2002 was sentenced to life imprisonment. On 9 November 2015, the deadline, by which the Turkmen authorities were to respond to the Committee and Shikhmuradov’s family regarding the decision, has passed.

The Committee issued its decision on a complaint filed by Shikhmuradov’s wife, Tatiana Shikhmuradova. The Committee determined that Shikhmuradov is the victim of an enforced disappearance and that the government of Turkmenistan failed to protect Boris Shikhmuradov’s life, violated his right to be free from torture, his right to a fair trial, and his right not to be subject to a retroactive penalty. The Committee also found that the government violated Tatiana Shikhmuradova’s right to be free from torture, in light of the suffering she has endured due to the long-term lack of information about her husband.

The Committee said that the government of Turkmenistan is obligated to provide a remedy to Boris Shikhmuradov, including by immediately releasing him and granting him just compensation, or, in the event that he has died, by giving Shikhmuradov’s remains to his family, and that the family should be compensated.

Regrettably, neither the Committee, nor Shikhmuradov’s family have received a response from the government of Turkmenistan.

On 29 December 2002, Boris Shikhmuradov, who served as foreign minister and vice-prime minister under the then-president of Turkmenistan, Saparmurad Niyazov, was sentenced to 25 years in prison for his alleged involvement in an attack on Niyazov, which allegedly took place in November 2002. He was sentenced four days after his arrest on 25 December.

On 30 December, the day after the court verdict, Shikhmuradov’s sentence was converted to life imprisonment by a decision of the People’s Council, a political body, with no court session. At the time,

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P.O. Box 2345, Alexandria, VA 22301 Tel/Fax: 703-299-0854
provetheyarealive@gmail.com, www.provetheyarealive.org

Turkmenistan's Criminal Code did not provide for life imprisonment. Only two months later, on 5 February 2003, the People's Council adopted a resolution "On high treason" where certain crimes were qualified as high treason, persons convicted in relation to the events on 25 November 2002 were identified as "traitors", and life sentence was introduced for high treason. Corresponding amendments to the Criminal Code were adopted even later.

It is not at all clear how the Turkmen authorities could have conducted an effective investigation into Shikhmuradov's involvement in the alleged attack in the four days between his arrest and sentence. Nor is it clear how the conversion of his sentence to life imprisonment could have been legal since it was done by the decision of a political body, without a court verdict, and the regulation providing for such conversions was adopted by the People's Council only after the events for which Shikhmuradov was charged had taken place and two months after his conviction.

Finally, we are deeply concerned about the complete lack of any official information on Shikhmuradov's fate and whereabouts in custody for the past 13 years.

These same questions were raised in the 2003 report by Emmanuel Decaux, the rapporteur on Turkmenistan for the Organization for Security and Cooperation in Europe (OSCE), appointed under the organization's Moscow Mechanism. The Moscow Mechanism was launched to examine the widespread arrests and persecution in Turkmenistan that followed the November 2002 events.

The government of Turkmenistan rejected the report and its recommendations and failed to implement crucial aspects of two resolutions adopted by the U.N. General Assembly in 2003 and 2004, respectively. These resolutions expressed grave concern about "serious and continuing" human rights violations in the wake of the November 2002 events, and called on the government to, among other things, implement the recommendations of the OSCE report.

Boris Shikhmuradov's case is but one of dozens of cases in which individuals have been forcibly disappeared in Turkmenistan's prison system. The problem of forced disappearances has only grown more acute because with each passing year there has not been a single instance in which the Turkmen authorities have addressed a case of forced disappearance through official channels and procedures. Instead, they respond by calling the disappeared "terrorists," even though Turkmen legislation does not envisage the total and complete isolation of detainees, even if they have been charged with terrorism. Moreover, at least half of the dozens of known enforced disappearance cases are unrelated to the 2002 alleged assassination attempt.

Since Turkmen officials have not responded to the U.N. Committee's decision, it is difficult to avoid the impression that they do not wish to acknowledge the problem of enforced disappearances in the Turkmen prison system, let alone address it. Yet it is worth noting that Turkmen legislation, including the Constitution, recognizes the primacy of international law and expressly states, in the Law on Permanent Neutrality, and in the Declaration on International Obligations of Neutral Turkmenistan in the Area of Human Rights, both adopted in 1995, that "Turkmenistan recognizes decisions the primacy of the UN and its decisions."

The government of Turkmenistan can and should solve the problem of forced disappearances. To do so, it should initiate constructive engagement with relevant international bodies, including those under the UN and OSCE, and implement their decisions and recommendations. It should fully fulfill its obligations under national legislation and international law that forbid enforced disappearances. These include obligations that derive from the International Covenant on Civil and Political Rights – the treaty that the government, as noted in the decision of the U.N. Human Rights Committee, has violated in the case of Boris Shikhmuradov. The door for taking positive steps is still open but time is of essence as human lives are at stake.

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We urge the government of Turkmenistan to:

- Provide, without any further delay, a substantive reply to the U.N. Human Rights Committee on its decision on the case of Boris Shikhmuradov, and immediately implement the Committee's decision regarding provision of remedy to Shikhmuradov and his family.
- End the suffering of relatives who have for so many years have been deprived of all contact with and information about their loved ones in prison.
- End enforced disappearances, investigate each case, and make a concerted, public effort in the coming year to provide information to family members and the public about the fate and whereabouts of each disappeared person, and turn a page in this dark period of Turkmenistan's contemporary history.

We urge President Berdymukhamedov to Prove They Are Alive.