

Turkmenistan in breach of Covenant for ill-treatment of political activist in detention

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In April 2015, the Human Rights Committee was asked to consider whether Turkmenistan had violated its obligations under the International Covenant on Civil and Political Rights in connection with the detention of a political activist.

The communication was submitted by a Turkmen national under the Optional Protocol to the Covenant.



Khadzhiev v. Turkmenistan (2079/2011)

Summary

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Background

The author, Sapardurdy Khadzhiev, is a human rights defender and activist in Turkmenistan.

On 16 June 2006, the author was apprehended by officials of the Investigations Unit of the Ministry of National Security of Turkmenistan and taken to the Ministry detention centre. The author was tortured and mistreated while in detention. His arrest was recorded three days later. During the first five days of his detention, his family were not informed of his whereabouts.

On 21 June 2006, the author was charged with firearms conspiracy offences, whereupon he was allowed to meet with his lawyer for the first time.

Before the author was charged, the author had been accused of espionage in the local news media. The investigator in charge of his case ordered him to confess his guilt on television and publically denounce his brother (an opposition leader) and sister (a journalist).

Ahead of the author's trial, the defence witnesses were not informed of the date and time of the court hearings and were not questioned during the pre-trial investigation. During his trial, the author's family and representatives of diplomatic missions were refused access to the court.

The author claimed that he had not committed any crime and had been arrested due to his active participation in the work of non-governmental organisations and his activities as a human rights defender.

On 25 August 2006, the author was sentenced to seven years' imprisonment. While in prison, the author's torture and mistreatment continued. He was denied food, water and medical assistance and given psychotropic drugs against his will. For the first two years of the author's imprisonment his family did not know his whereabouts and he was denied any contact with them. During this period, the author submitted numerous complaints to different State institutions but all were ignored.

While in prison, the author was unable to obtain documents relating to the pre-trial investigation and subsequent court hearing. His correspondence was also intercepted and censored by the prison administration.

On 27 May 2009, the author filed this communication with the Committee under the Optional Protocol to the Covenant. The author claimed that he was the victim of violations by Turkmenistan of his rights to: (i) freedom

from cruel and inhuman treatment, (ii) freedom from arbitrary detention, (iii) respect for the inherent dignity of the human person while in detention, (iv) a fair trial, (v) examination of the prosecution's witnesses, (vi) freedom from duress aimed at forcing him to confess, and (vii) freedom from unlawful interference with the family (under articles 7, 9(1), 10(1), 14(1), 14(3)(e) and (g) and 17(1) of the Covenant respectively).

On 15 February 2013, the President of Turkmenistan issued a pardon with respect to the author and he was subsequently released from prison.

The Committee's decision

Regarding the admissibility of the author's claims, the Committee found that the parts of the claim concerning articles 14(1) and 14(3)(e) were inadmissible for lack of substantiation under article 2 of the Optional Protocol. The Committee considered, however, that the author had sufficiently substantiated his claims regarding articles 7, 9(1), 10(1), 14(3)(g) and 17(1) of the Covenant.

On the merits, the Committee noted the author's claims of torture and ill-treatment following his arrest and his claim that both the author and his lawyer had been pressured to confess the author's guilt. The Committee noted the author's claim that he had been detained for three days while being unable to initiate any form of legal process to challenge the lawfulness of his detention. The Committee also noted the author's allegations that he had been prevented from seeing his family and relatives while in prison and from exchanging correspondence with them. With respect to the latter, the Committee recalled its jurisprudence whereby it had stated that prisoners should be allowed, under necessary supervision, to correspond with their families and reputable friends on a regular basis without interference, as stipulated in the United Nations Standard Minimum Rules for the Treatment of Prisoners.

In light of the above, the Committee concluded that Turkmenistan had violated the author's rights under articles 7, 9(1), 14(3)(g) and 17(1) of the Covenant on Civil and Political Rights. Having found a violation of article 7, the Committee did not find it necessary to examine the author's claims arising under article 10(1).

In accordance with article 2(3) of the Covenant, the Committee found that Turkmenistan was under an obligation to provide the author with an effective remedy, including financial compensation. The Committee also requested that Turkmenistan conduct an investigation into the author's pre-trial detention and subsequent imprisonment, provide him with detailed information on the investigation and seek to punish those responsible for the violations committed.

Turkmenistan must now submit its written response within six months of the Committee's decision, including information on the action taken in light of the Committee's recommendations, and ensure that the decision is published widely.

Sam Hunter Jones is an international lawyer, based in London.