



ODIHR.GAL/15/03
12 March 2003

Original: as delivered

Distr.
55 OSCE participating States

12 March 2003

Original: ENGLISH

OSCE Rapporteur's Report on Turkmenistan

By Prof. Emmanuel Decaux

The attached Rapporteur's Report was prepared pursuant to paragraph 12 of the OSCE's Moscow Mechanism invoked by a group of ten OSCE participating States on 20 December 2002. The Rapporteur was appointed by the same group of States on 16 January 2003. As the OSCE institution designated to provide support to the implementation of the Moscow Mechanism, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) is required to transmit the Rapporteur's Report to all participating States.

SUMMARY

1. At the request of ten participating States, the Human Dimension Mechanism was triggered according to § 12 of the Moscow Document. The mission is composed of a single rapporteur, as Turkmenistan failed to appoint a second rapporteur. The OSCE rapporteur is in charge of *"a fact-finding mission to Turkmenistan to examine concerns arising out of investigations resulting from the reported attack on 25 November on President Niyazov"*. He is tasked *"to investigate all matters relating to the conduct of the investigations, including allegations of torture, and resulting developments which may constitute a particularly serious violation of its OSCE commitments in the human dimension"*. Chosen for his impartiality, the rapporteur fulfilled his task with full independence and confidentiality. He submitted his report on the 25 February 2003.

2. The report begins with a description of the legal framework of the situation, both on the international and on the domestic levels. If Turkmenistan's structures apparently respect the rule of law, it is in fact escaping international control, by avoiding reporting on its commitments and by using the absentee strategy during the meetings of the Human Dimension of the OSCE. On the domestic level, constitutional principles are violated by overlapping of the constitutional separation of powers and the absence of effective remedies.

3. The report then deals with the fact-finding mission, concerning the different facets of the repression, which is going on since the murder attempt of 25 November 2002 against President Niyazov. Large-scale violations of all the principles of due process of law, like arbitrary detentions or show trials took place. Not only has torture been used to obtain confessions, but the forced use of drugs was a means of criminalising the detainees, entailing lethal risks for them. A multifaceted collective repression fell on the "enemies of the people", whereas forced displacement is officially announced in arid regions of the country, especially against peoples targeted on the ground of their ethnic origin. Even if the death penalty has been legally abolished, in practice, the survival expectancy of political detainees and displaced persons seems very low. Certain personalities, who were detained *incommunicado*, may have already been eliminated.

4. The report compiles a long list of individual cases illustrating different kinds of violations that are taking place in the framework of current repression. This list has been established on the basis of particularly reliable information from NGOs. It will be completed and updated, taking into account new available information. The greatest attention is required from the international community to this information. In such conditions, it is of the utmost importance that third States - especially the State Parties to the European Convention on Human Rights - should refuse any extradition request or "deportation" of Turkmen nationals required by this State.

5. The report ends with a series of precise recommendations. The necessity for the international community to further commit itself to preventing the isolation that Turkmenistan is inflicting to itself is particularly stressed. Following up on the situation is an absolute necessity, especially within the OSCE or the UN frameworks. New investigations are certainly required by OSCE bodies, which should urgently take up the situation, as well as the Rapporteurs of the UN Commission on Human Rights. The OSCE rapporteur wishes to alert the international community to the very serious risks entailed by the current situation with regard to peremptory norms of general international law.

RECOMMENDATIONS

The present report is only a starting point. It is indeed only a stage among others in the process triggered by the Moscow Mechanism. The Rapporteur's mandate has itself some obvious limits:

Ratione materiae, since we were asked to concentrate on the follow-up to the November 25 2002, and not to generally assess the human rights situation in Turkmenistan, with respect to for example public liberties, minority rights, or economic, social or cultural rights of the population. However, the current crisis falls within a trend of previous violations, and only deepens their darkest features.

Ratione temporis, a strict timetable limits the report, while precious information is reaching the Rapporteur¹. In order to respect these time constraints, inherent to the Moscow Mechanism, the Rapporteur submits his report today, taking into account the 15 days prescribed time for the consultation of concerned States. In this respect, he regrets that the authorities of Turkmenistan, which should have been his primary source of information, have not yet contributed to the report and hopes that they will answer in great detail to the many questions raised.

Ratione personae, since the Rapporteur could not, in conformity with the Moscow Document requirements, go to Turkmenistan, but above all since he could not make any contact with persons residing in Turkmenistan. The Rapporteur was warned that the mere fact of trying to contact lawyers associated with current cases would constitute a risk to their security.

Despite or because of these limits, the report must be the starting point of a more comprehensive commitment of the OSCE, and beyond, of the participating States and International Organisations for the protection of human rights in Turkmenistan. It is not for the Rapporteur to reach a verdict on the political or economic implications of such a commitment. But when it comes to the legal aspects, with which he is concerned, he must underline the importance of a new vigilance in the light of an effective respect of the commitments of the human dimension, the rule of law, democracy and human rights. The permanent neutrality of Turkmenistan cannot be reduced to the absentee policy when it comes to the mere accountability of the implementation of international commitments, before OSCE human dimension meetings, UN treaty-bodies or ILO Committees. "Permanent Neutrality" cannot be a fig leaf for permanent human rights abuse.

Yet, this assessment, although limited in its object is already appalling. The contrast between the law as it is presented and the reality marked by terror and fright is mind-boggling. Only a return to the principles and commitments of the OSCE could allow Turkmenistan to get out of the maelstrom into which it is being driven. It is in the spirit of a necessary mobilisation of the International Community and of an indispensable co-operation of Turkmenistan in view of the implementation of all human rights that we present the following recommendations, that are either of a general nature undoubtedly utopian considering the present situation but nevertheless necessary in the future - or of a specific nature, and for immediate enforcement. The recommended measures may seem unrealistic, but they are nevertheless inescapable for any State governed by the rule of law and full member of the international community. Turkmenistan cannot constitute a "black hole" within the OSCE, a human rights desert. The isolation that Turkmenistan inflicts upon itself is the worst solution of all.

¹ As the press release of 14 February 2003 publicising the invocation of the Moscow Mechanism does not stress a deadline, the Rapporteur continues to receive testimonies from multitude sources.

1. The first recommendation is to strengthen the guarantees inherent to the rule of law, with the creation of an independent Constitutional Court, which would be the guardian of the primacy of international law over domestic law, of separation of powers and of the review of the constitutionality of laws. Without a rigid Constitution, protected by effective remedies, the rule of law will remain unfinished and fragile.
2. International guarantees are an important element in the strengthening of domestic guarantees. In this regard, Turkmenistan has already accepted a series of important commitments. But they remain dead letter, first because the authorities do not respect their minimal obligations to co-operate with the monitoring bodies starting with the submission of periodic reports to the UN treaty monitoring bodies and second because they fail to provide sufficient information to the public. Turkmenistan should submit without delay the reports requested by the UN and the ILO bodies. Failing this, the General Assembly should reconsider the respect by Turkmenistan of resolution 50/80 of 12 December 1995, in reference to the purposes and principles of the UN Charter.
3. Moreover, Turkmenistan should confirm its commitment as a full member of the International Community by acceding to human rights treaties which it has not yet ratified, starting with the 1948 Convention against Genocide and the International Criminal Court Statute, as well as the new Optional Protocol to the UN Convention Against Torture of 1984.
4. On the domestic level, the priority is a full guarantee of the independence of the judiciary, in accordance with United Nations standards, as well as with the commitments under the OSCE Copenhagen Document. Similarly, effective justice relies upon the setting up of a judiciary worthy of the name and on an independent bar. The Rapporteur recommends that an immediate invitation be addressed to the United Nations Special Rapporteur on the independence of judges and lawyers to assess the situation in this domain. Programmes of international co-operation should be set up in priority in this field, as well as for the training of law enforcement officers.
5. In the same spirit, the rights of individuals belonging to civil society should be respected and the work of NGOs should be facilitated throughout the country. In this regard, the urgent appeal launched by numerous international NGOs in favour of the immediate release of Mr. Farid Tukhbatullin an environment defender whose peaceful and non-political commitment is pointed out by all NGOs should be heard without delay by the Turkmen authorities. In order to facilitate compliance with the OSCE commitments, a standard MoU with OSCE/ODHIR to implement projects in the field of the rule of law and strengthening of civil society ought to be signed by Turkmenistan.
6. Political trials that have followed the 25 November *coup* should be reviewed, either by appeal or through new trials, with full respect for the rights of the defendant, and with the guarantee of judicial observers, in particular representatives of NGOs, in accordance with OSCE commitments. Measures of harassment and collective deprivation of property should be put to an end.
7. In the expectation of new trials, urgent investigations on the prisoners conditions of detention should be carried out by the UN Special Rapporteur on Torture, as well as by the Working Group on Arbitrary Detention. Similarly, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions should be invited to investigate reports of deaths of persons imprisoned in connection with the alleged attempt of 25 November.
8. Turkmenistan should immediately put an end to forced displacement of populations, especially persons belonging to national minorities. It should also guarantee freedom of movement inside the country and freedom to leave the country for all Turkmen nationals, as well as for foreigners, and in particular facilitate transborder contacts. Facing this very

threatening situation, the authorities should also invite the Special Representative of the UN Secretary-General on internally displaced persons for an emergency visit to Turkmenistan.

9. Turkmenistan should abandon discriminatory discourses or practices, based on a conception of “racial purity” which is contrary to all international principles. It should invite the UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance and respond without delay to the requests of the UN Committee for the Elimination of Racial Discrimination.

10. Turkmenistan should respect the Vienna conventions of 1961 on Diplomatic Relations and of 1963 on Consular Relations, and should allow, in particular, a consular protection for detained foreigners or bi-nationals.

11. Third States, and particularly the States parties to the European Convention on Human Rights, should refuse to extradite or to hand over Turkmen nationals who, in the current circumstances, are in danger of being subjected to torture or inhuman and degrading treatments. They should envisage the possibility of granting refugee status to all persons having a well-founded fear of being persecuted and co-operate with the UNHCR to this end.

12. Third States should also request the Turkmen authorities not to impede the distribution of foreign newspapers and the free access to international media and to electronic means of communication. The participating States should support the courageous action of the OSCE Representative on the Freedom of the Media.

13. It is recommended that this report be made public in its entirety including the annexes that the Russian translation be widely released, and that access to an electronic version be facilitated on the OSCE website.

14. It is in particular recommended to transmit this report without delay to the UN Office of the High Commissioner for Human Rights for distribution to all the participants to the 59th session of the Commission on Human Rights.

15. It is finally recommended to transmit the report to the other international organisations concerned, in particular the International Labour Organisation, the Community of Independent States, the Council of Europe, the EBRD, the ADB and the World Bank.

16. It is a last duty to the OSCE rapporteur to ask the Chairman in Office, as well as the OSCE Centre in Asghabat, to take care of the effective implementation of § 6 of Moscow Mechanism, “*The participating States will refrain from any action against persons, organizations or institutions on account of their contact with the mission of experts or of any publicly available information transmitted to it*”.

The Rapporteur’s intention is not to situate its action at the diplomatic or political level, but on the level of law and facts. A follow-up to the present report is necessary, not only within the framework of the OSCE, but also within the UN and, more generally, by the International Community as a whole. To quote President Vaclav Havel, “*some international organisations are dying of being polite*”. What is essential is that Turkmenistan may live. In this regard, the provisory assessment of the three tragic months that have followed 25 November is overwhelming. Any new delay in taking action would not only be a moral abdication but also a collective complicity.

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I. THE OSCE RAPPORTEUR'S MISSION

A. The establishment of the mission

The OSCE rapporteur's mission was established pursuant to the Human Dimension Mechanism².

The human rights situation in Turkmenistan was discussed, *inter alia*, during Permanent Council meeting n°425 (7 December 2002) and n°426 (12 December 2002) with public statements of the Danish Presidency of the European Union (PC.DEL/992/02 and PC.DEL/1000/02) and of the United States Mission to the OSCE (PC.DEL/1006/02). In its "*Statement of concern about arrests in Turkmenistan*" (PC.DEL/1006/02), the US Mission invoked Paragraph 2 of the Moscow Mechanism: "*In accordance with Turkmenistan's OSCE commitments under the Vienna 1989 and Moscow 1991 Documents we request information concerning the whereabouts and charges against Mr. Berdiev and all others in custody in connection with the assassination attempt. We expect to receive this information, in accordance with the Moscow Mechanism, in writing, within 10 days*".

During the same PC meeting, a statement by the delegation of Turkmenistan was delivered to offer "*clarifications with regard to questions raised in the statement of the Chairman-in-Office, the report of Mr. Duve and the statements of the European union and various delegations*" (PC.DEL/1004/02).

On 13 December a letter of the acting Director of ODHIR was sent to Ambassador Vladimir Kadyrov, Head of Delegation of Turkmenistan to the OSCE, and on 16 December a letter of the Chairman-in-Office, Minister for Foreign Affairs of Portugal, to Mr. Rashid Meredov, Minister for Foreign Affairs of Turkmenistan (CIO.GAL/105/02).

During Permanent Council meeting n°427 (19 December 2002), the Delegation of Turkmenistan was "*authorised to transmit in writing the replies of the Turkmenistan authorities to the written inquiry received by us from the head of the United States delegation to the OSCE. We assume that the American delegation will distribute this document so that the delegation of other participating States have an opportunity to familiarise themselves with it*" (PC.DEL/1022/02).

The following day, the delegation of Turkmenistan distributed a statement on behalf of the Ministry for Foreign affairs of Turkmenistan "*in view of statements made by some delegations of participating States at the OSCE PC on 19.12.2002*" (SEC.DEL/258/02). At the same meeting two written statements of the Ministry for Foreign Affairs of Uzbekistan were distributed at the request of its delegation (SEC/DEL/254/02 and SEC.DEL/255/02). Several oral statements were made, in reference to Paragraph 12 of the Moscow Document, *inter alia*, by Norway (PC.DEL/1023/02) and United States (PC.DEL/1025/02).

In a letter of 20 December 2002 to the Head of the Delegation of Turkmenistan to the OSCE, Ambassadors of ten participating States of the OSCE invoked Paragraph 12 of the Moscow Document Mechanism, "*in order to establish a fact-finding mission to Turkmenistan to examine concerns arising out of investigations resulting from the reported attack on 25 November on President Niyazov. (They) expect the mission to investigate all matters relating to the conduct of the investigations, including allegations of torture, and resulting developments which may constitute a particularly serious threat to the fulfilment by Turkmenistan of its OSCE commitments in the human dimension*".

² OSCE Human Dimension Commitments, *A Reference Guide*, OSCE, Warsaw, 2001. (cf. texts in Annex I.1).

During a special PC n°429 (30 December 2002), the EU made a new statement (PC.DEL/1027/02).

During PC meeting n°431 (16 January 2003), the OSCE representative on the Freedom of the Media, Mr. Freimut Duve, made a statement. The EU made a statement in response to this statement.

On 15 January 2003, the requesting States appointed Professor Emmanuel Decaux as first rapporteur and informed the acting Director of the ODIHR of the mandate of the fact-finding mission. On 16 January, the Director informed H.E. Saparmurat Niyazov of the use of the Moscow Mechanism by 10 participating States and, inter alia, of the time limit to appoint a second rapporteur.

On 22 January 2003, the Minister for Foreign Affairs Meredov came to Vienna and met with delegations of the 10 Participating States.

During PC n°433 on 30 January, the Greek Delegation, on behalf of the EU made a public statement (PC.DEL/57/03) as did the US delegation (PC.DEL/64/03).

A new letter of the acting Director of the ODIHR to H.E. Saparmurat Niyazov, on the 27 January, takes note of the absence of answer as a rejection of the possibility to appoint a second rapporteur and stresses the need for full co-operation with the single rapporteur mission.

In a letter dated 31 January 2003, the Ministry for Foreign Affairs of Turkmenistan recalled the previous meeting of Minister Meredov in Vienna and states its official position:

"In the presentation of the Minister of Foreign Affairs it was stated that investigation of this criminal case was conducted in strict accordance with the law, and with norms of international law. The degree of guilt for every participant of this serious crime was identified on the basis of the detailed examination of the facts, material evidences and circumstances surrounding it (...).

Moreover, the Delegations of the aforementioned OSCE participating States raised issues concerning the procedure of sending experts to Turkmenistan to examine unfounded information and pure fabrications, but avoided to solve the main issues of co-operation in the sphere of fight against crime and terrorism. Such an approach is absolutely unacceptable because it is based on mistrust and it insults Turkmenistan as an equal member of the OSCE.

Based on the above, the Turkmen side once again underlines that it is unacceptable to send a mission mentioned in the OSCE/ODIHR letter to Turkmenistan, and requests not to raise this issue with the Turkmen side in the future".

The OSCE rapporteur, beginning his mission, went to Vienna (7 and 8 February) and Warsaw (10 and 11 February) for talks with participating States and OSCE institutions. Taking into account the delay caused by diplomatic attempts to obtain a co-operation from Turkmenistan, the rapporteur announced his intention to present a preliminary report at the end of February and asked the ODIHR to make a factual press release in order to inform the public at large of the process under the Moscow Mechanism. For the rapporteur, publicity as such is an expression of public concern but also a way to get relevant information for the making of the OSCE report, all the more useful since the requested State decided not to co-operate. The rapporteur had other meetings in The Hague (23 and 24 February) before the final completion of his report.

B. The nature of the Mandate

It is, in itself, a challenge to be an OSCE rapporteur, especially in charge of a single rapporteur mission, without any useful precedent of the Moscow Mechanism in the last ten years. But it is even more challenging to have to present a report without the support of the "inviting State" as indicated by the representatives of Turkmenistan. In this situation, the mission of the rapporteur is crystal clear: he must first of all preserve the integrity of his mandate, in dealing effectively with the specific situation. In this regard, some preliminary remarks have to be made on the nature of this mandate.

First, the Human Dimension Mechanism is *"a method of furthering respect for human rights, fundamental freedoms, democracy and the rule of law through dialogue and co-operation (...)"* (Moscow, 1991, I §1). On one hand, the use of the mechanism is not an unfriendly measure or an expression of disrespect, but the fulfilment of an international commitment. As stressed by the Preamble of the Moscow Document and recalled in the Charter for European Security adopted in Istanbul 1999: *"Participating States are accountable to their citizens and responsible to each other for their implementation of their OSCE commitments. We regard these commitments as our common achievement and therefore consider them to be matters of immediate and legitimate concern for all participating States"* (§ 7). On the other hand, as expressly stipulated in the Moscow Document, *"The inviting State will co-operate fully with the mission of experts and facilitate its work. It will grant the mission all the facilities necessary for the independent exercise of its functions. It will, inter alia, allow the mission, for the purpose of carrying out its tasks, to enter in the territory without delay, to hold discussions and travel freely therein, to meet freely with officials, non-governmental organisations and any group or person from whom it wishes to receive information"* (I, § 6).

At this preliminary stage of the OSCE report, one can only regret the systematic non co-operation of the authorities of Turkmenistan that not only impairs its most basic international obligations but impedes, in itself, the completion of the fact-finding mission, even though Turkmen authorities used to stress their desire of transparency and taste for publicity. In the same way, during the meeting of the Cabinet of Ministers of Turkmenistan on December 16, 2002, President Niyazov, *"outlining that the Turkmen State has nothing to hide from its people and world community"*, instructed the General Prosecutor of Turkmenistan to tell the public about the results of the investigations. More than ever, Turkmen authorities bear the burden of proof.

Regardless of this political procastration, pursuant to the Moscow Document, the mandate of the OSCE rapporteur has to be completed: *"The CSCE rapporteur(s) will establish the facts, report on them and may give advice on possible solutions to the question raised"* (I, §11). In doing so, the main responsibility of the rapporteur is towards the implementation of the human dimension commitments and particularly the integrity of the Moscow Mechanism, on behalf of the whole community of OSCE participating States, including Turkmenistan. Three words can summarise the very nature of this mandate: impartiality, as a rapporteur is appointed as an expert *"preferably experienced in the field of the human dimension, from whom an impartial performance of their functions may be expected"* (I, § 3), full independence, in the exercise of his functions, notably towards participating States and OSCE institutions, and confidentiality, especially in order to protect sources of information, as stressed in the Moscow Document: *"The mission may also receive information in confidence from any individual, group or organisation on questions it is addressing. The members of such missions will respect the confidential nature of their task"* (I, § 6, al.2).

In this spirit of impartiality and independence, the rapporteur has to search for all relevant documentation from every side, namely - as he was lacking direct contacts that could

have been afforded by an on the spot visit - statements of Turkmen authorities and official media as well as information from the world press and from international NGOs.

The rapporteur wishes to thank all the persons whom, in official or private capacities, brought their support and assisted with the completion of this report. He regrets that for obvious safety considerations he is not able to publish the list of this contacts, but he wants to underline the very professional contribution of NGOs which are fulfilling an irreplaceable task, such as Amnesty International, the International Federation for Human Rights, Helsinki Federation for Human rights, Memorial, Open Society, International Crisis Group and so on.

As it stands, this OSCE report aims at giving a factual picture, as objectively as possible - in spite of the practical limits imposed on his mission - of the human rights situation in Turkmenistan, following the so-called "attempt" on November 25. It must be stressed that, by nature, it is a preliminary report, which ought to be complemented with new information and evidence, due to the absence of visit of the rapporteur in the country and the refusal of any co-operation on the Turkmenistan's side. Even if this refusal to co-operate might seem a self-evident characterisation of the situation, the OSCE rapporteur preferred to disregard such presumption and have an impartial look at the legal principles and the established facts.

According to the time-limit set by the Moscow Mechanism, Turkmenistan has a last chance to co-operate, as *"The report of the rapporteur(s) containing observations of facts, proposals or advice, will be submitted to the CSCE Institution no later than two weeks after the last rapporteur has been appointed. The requested State will submit any observations on the report to the CSCE Institution, unless all the States concerned agree otherwise, no later than two weeks after the submission of the report"* (§ 11). It must be stressed that the need for further clarification for a number of pending issues does not question the accuracy of the factual analysis and legal evaluation already presented in the report.

II. THE LEGAL FRAMEWORK

Before the establishment of facts, it is necessary to have an overview of the legal framework in which the investigations following the November attempt took place. The Constitution of Turkmenistan adopted in 1992 and modified in 1995 and in 1999 seems to offer a "model" for the respect of the Rule of law, in accordance with the principles and commitments of the OSCE³. *"Turkmenistan as a fully-fledged member of the world community, strictly complies with the principles and norms of the United Nations, which have taken and continued to take priority in the country's foreign-policy strategy"* states the *Ruhnama*⁴.

With this in mind, the public institutions of Turkmenistan should thus operate on a strong legal basis, either in international law or in domestic law.

A. International Law

The *Ruhnama* presenting the essence of the *"State of Turkmen"*, underlines that *"Turkmenistan recognises the priority of the generally accepted standards of international law"*. More specifically, *"Turkmenistan accepts international human rights standards accepted by other members of the international community"*.

³ Cf. full text in annex.

⁴ Saparmyrat Türkmenbasy, *Ruhnama (Reflections on the Spiritual values of the Türkmen)*, Ashgabat, 2002.

In a recent report to the UN Security Council, Turkmenistan recalled these basic principles: "*Under Article 6 of the Constitution of Turkmenistan, the legislation of Turkmenistan recognises the supremacy of generally accepted rules of international law. In that connection, the provisions of international treaties to which Turkmenistan is a party have direct force of law*" (S/2002/580).

Turkmenistan is a Member State of the United Nations since 2 March 1992. This State is bound by the main international human rights instruments in its own capacity, after accession to these instruments, as well as a successor of the former Soviet Union⁵. In the same way, Turkmenistan is a party to the core instruments of the International Labour Organisation. But on a more practical level, there is no co-operation from Turkmenistan, as it does not fulfil its international obligation to report to the treaty-bodies or to the special procedures of the Human Rights Commission, as well as to the ILO procedures.

Turkmenistan acceded to the International Covenant on Civil and Political Rights and to its first Optional Protocol recognising the competence of the Human Rights Committee to receive individual communications on 1 May 1997. It acceded to the Second Optional Protocol aiming at the abolition of the death penalty, with entry into force on 11 January 2000. However it never presented to the Human Rights Committee its first report, overdue since 31 July 1998.

More recently, on 25 June 1999, Turkmenistan acceded to the UN Convention Against Torture, with entry into force on 25 July 1999. Its preliminary report is due since July 2000.

Turkmenistan acceded to the Convention on the Elimination of Racial Discrimination on 29 September 1994. Its first report was due for 29 October 1995. In 2002, the CERD decided to examine the situation of Turkmenistan without any written report and adopted its concluding observations on 21 May 2003 (CERD/C/60/CO/15). The CERD declared *inter alia*: "*Although Turkmenistan has ratified the main international instruments in the field of human rights, it has not reported to any United Nations treaty body. The State party, moreover, has not responded to communications sent by special rapporteurs of the Commission on Human Rights.*" (§ 2) The Committee also remarked that the State did not take any action concerning "*the proposal made by the High Commissioner for Human Rights in February this year relating to the conduct of a human rights needs assessment in Turkmenistan. The aim of such an assessment is to formulate a programme to assist the State party in developing its national capacities to promote and protect human rights.*" (§ 7) On the substance, the Committee which "*expresses deep concern about grave allegations of human rights violations in Turkmenistan, both in the civil and political, as well as social, economic and cultural domains and, in connection with Article 5 of the Convention*" (§ 3) urged in vain the Turkmen Government to start "*the dialogue with the Committee ... as soon as possible.*" (§ 8) (CERD/C/60/CO/15).

Thematic rapporteurs of the UN Human Rights Commission intervened several times on the basis of allegations of violations. In 2002, the Working Group on Arbitrary Detention (one appeal concerning one person), the Special Rapporteur on Torture (two urgent appeals, one of them jointly with the Special Rapporteur on Freedom of Opinion and Expression) and the Special Rapporteur on Freedom of Religion and Belief (one communication) made interventions.

The situation is similar within the ILO. A member of this Organisation since 24 September 1993, Turkmenistan ratified six international labour conventions on the 15 May 1997, but refused to report to the control bodies. Like previous years, the ILO Committee of

⁵ General Comment n° 26 (61) of the UN Human Rights Committee, 8 December 1997 : *Continuity of obligations*.

Experts on the Application of Conventions and Recommendations (CEACR) had to adopt an ordinary General Observation concerning Turkmenistan: *"The Committee notes with regret that, for the third year in succession, the reports due have not been received. It also notes that the first reports due since 1999 on Conventions n°29, 87, 98, 100, 105 and 111 have not been received. The Committee trusts that the Government will not fail in future to discharge its obligation to supply reports on the application of ratified conventions, in accordance with its constitutional obligations and, if necessary, requesting appropriate assistance from the Office"*.

Finally, the European Bank for Reconstruction and Development (EBRD), whose Statute makes express references to the OSCE principles, could only record the political failing of Turkmenistan, as well as its diplomatic absenteeism, whereas at the same time it was present in the field through several investment projects. As stated by the EBRD President in a letter dated 25 July 2002 and addressed to President Niyazov:

"In my letter to you of 24 May 2002 I informed you that in July 2002 the EBRD Board of Directors would discuss its new Strategy for Turkmenistan. I also invited the Turkmenistan authorities to send a representative to London in advance of the Strategy discussion, in order to give the Board and the country an opportunity to discuss directly the situation as well as political and economic transition issues in Turkmenistan."

The Strategy for Turkmenistan was approved by the Board of Directors as originally planned on 10th July 2002. Unfortunately, despite the Bank's readiness, a dialogue with the Turkmenistan authorities could not take place before the Strategy's approval.

The new Strategy is based on the assessment that in the last year there has been little evidence of improvement regarding the Turkmenistan authorities' commitment to, or the application of the principles of multi-party democracy, pluralism and market economics in accordance with Article 1 of the Agreement Establishing the Bank. The Strategy concludes that the state of political and economic reform in the country is unsatisfactory and, therefore, that the Bank is seriously constrained in its mission to further the country's transition(...) I hope that the political and economic reforms in Turkmenistan in the period ahead will be such as to allow a much increased investment activity by the EBRD and also that the dialogue between the Bank and Turkmenistan will strengthen."

If one considers that in addition to this tactic consisting of being silent and absent, Turkmenistan is systematically using the "chaise vide" tactic in the meetings of the OSCE on the implementation of the Human Dimension commitments, it is fair to wonder about the dangerous drift which, little by little, affects the meaning given by this country to the concept of "neutrality". When the notion of permanent neutrality of Turkmenistan was recognised by the General Assembly in a resolution of 12 December 1995 (Res 50/80), it was stressed that this permanent neutrality "will contribute to the achievement of the purposes of the UN". On December 27 1999, the People's Council of Turkmenistan ratified the new foreign policy aiming at "democracy, humanism and respect for human rights and freedoms".

A year later, a Declaration adopted on 11 December 2000 transmitted to the General Assembly (A/55/732), stressed:

"The philosophy of neutrality has become an important factor for conflict-free internal development, for the creation in multi-ethnic Turkmenistan of conditions of harmony among faiths, races and ethnic groups, political stability and social partnership, and for the consistent humanisation of all aspects of public life. In Turkmenistan citizens are guaranteed equal rights irrespective of ethnic origin, skin colour, sex, age, religion or political views."

Turkmenistan was the first State on the Asian continent to pass legislation abolishing the death penalty. All of this is furthering the spiritual education of the Turkmen people in lofty, life-affirming ideals and the implementation in society, as the foundation of the national philosophy of humanist values - peace, justice, openness, tolerance, mutual respect - which are gradually penetrating the flesh and blood of the Turkmen people (...) The fifth anniversary of Turkmenistan's neutrality is a significant date in the history of the Turkmen people. Five years of neutrality have provided them with the opportunity for peaceful and constructive labour in conditions of internal harmony and stability, the laying of a stable material and spiritual foundation for accelerated economic reform, the gradual introduction of democratic standards and institutions, and the elevation of the country in the near future to the ranks of the world's modern developed States".

Significantly, the words "human rights" do not appear in this appraisal. As a matter of fact, in practice, Turkmenistan does not comply with its general obligations of international co-operation under the Charter, nor with the conventional obligations it has voluntarily accepted. Neutrality appears as the facade of an increasingly isolationist policy, which has enabled this small country to escape international attention and legitimate concern of international organisations. This disguised neutrality must not be a permanent contempt of the international community as well as a permanent alibi to violate with impunity its international obligations in the field of human rights.

B. Domestic Law

It is not necessary in this introductory part to dress a full picture of the political system of Turkmenistan, but to stress the legal principles enshrined in the Constitution⁶.

In the field of the human dimension and more particularly, as regards the protection of Human Rights, *"the government and society [of Turkmenistan] place the highest value on the person" and "the government protects life, honour, dignity, freedom, individual inviolability, and the natural and inalienable rights of the citizen"* (Article 3 of the Constitution of Turkmenistan). This protection encompasses foreign citizens and stateless persons (Article 8) and is reaffirmed in Article 16, which reads: *"[t]he rights of the person are inviolable and inalienable. No one may deprive another person of any rights or freedoms or limit her or his rights in any manner other than in accordance with the Constitution and laws. Any list of rights and freedoms of the person in the Constitution and laws may not be used to deny or diminish other rights and freedoms"*.

The Constitution enumerates in practical and concrete terms the Rights and Liberties that it protects. Thus, the right to life is protected by Article 20, as revised in 1999, which provides: *"In Turkmenistan, the person has the right to life and is free to achieve him or herself. No one can be deprived from his right to life. The right of every person to have a free life is protected by the State on the basis of the law"*. Furthermore, in accordance with peremptory norms of general international law, Article 21 of the Constitution states: *"No one may be subjected to torture or cruel, inhumane, or degrading treatment or punishment"*. Likewise, the same provision provides that *"no one may be subjected without her or his consent to medical or other experiments"*.

As regards criminal repression, the citizens of Turkmenistan are protected from any violation of the home (Article 22) as well as from any arbitrary arrest by Article 21 which provides: *"A citizen may be arrested only on condition of the existence of grounds specifically indicated by law, by decision of a court, or with the approval of a procurator. In*

⁶ Cf. UNDP, *Descriptive Report on Governance in Turkmenistan*, Ashgabat, March 2001; International crisis group, Asia Report n°44, *Cracks in the marble : Turkmenistan's failing dictatorship*, Osh/Brussels, January 2003.

situations, specifically indicated by law, not allowing delay, a governmental organ authorized to do so has the right temporarily to detain citizens".

The Constitution of Turkmenistan establishes also the principle of the legality of sentences and offences in the same Article 21 which states: *"A citizen may not be limited in her or his rights, deprived of the rights which belong to her or him, convicted, or subjected to punishment, except in exact accordance with the law and as the decision of a court".* Moreover, Article 43 states : *" A law, worsening the condition of a citizen, may not be ex post facto. No one may be liable for an act which at the time of its commission was not a violation of the law".*

The Constitution of Turkmenistan also recognizes the right to professional legal assistance at any stage of the legal process (Article 108) and prohibits to force a person *"to give testimony or explanations against herself or himself or close relatives. Evidence acquired under the influence of psychological or physical pressure or other unlawful means does not have legal force".* (Article 42)

With respect to the strictly judicial stage, whatever is the court involved *"trials are open. Closed hearings for a case are only allowed when anticipated by law and with adherence to all rules of legal procedure"* (Article 105). These rules of legal procedure are also listed in the Constitution. Article 108 states: *"Justice is implemented on the basis of the adversarial nature and equality of parties. Parties have the right to appeal the decisions, sentences, and other judicial decisions of any of the courts of Turkmenistan".* Moreover, even if *"[t]he legal process is conducted in the state language"* i.e, Turkmen language, *"[p]ersons participating in a case who do not speak the language of the legal process are ensured the rights to acquaint themselves with the materials of the case, to participate in the legal proceedings through an interpreter, and to speak in the court in their native language"* (Article 106).

Even if Article 19 of the Constitution construes "moral demands" as a limit to the exercise to the recognised rights, the whole of these protection provisions have direct effect since they are provided for in the Constitution. Moreover, *"[l]aws and other legal acts which contradict the Constitution have no legal force"* and, more precisely, *"[l]egal acts which affect the rights and freedoms of citizens and for which there is no general notice are invalid from the moment of their adoption"* (Article 4). Furthermore, the constitutionality of normative acts emanating from State and governmental organs is ruled upon by the Parliament (Article 67, §7). However, given the fact that the control organ is a political one, there does not seem to be an efficient control based solely on legal considerations.

From a practical point of view, *"The judicial power is intended to defend the rights and freedoms of citizens"* (Article 99). The Independence of the judiciary is established by Constitution's Article 101 . Although *"Judges of all courts are appointed by the President for terms of five years"* (Article 102), the fact that *"a judge may be dismissed from office without her or his consent only by decision of a court and for a reason enumerated in the law"*(Article 102) does not appear to challenge the principle of separation of the executive, legislative and judicial powers established by Article 4 of the Constitution. However the subordination to the President of the General Prosecutor (Article 112) even though the latter *"supervises the legality of law enforcement investigative activity, criminal investigations, and investigative materials"* seems more problematic as regards the respect of the separation of powers.

The absence of separation of powers is manifest within the Halk Maslahaty where the Chairperson of the Supreme Court and the General Prosecutor sit (Article 48). This Constitutional organ has the competence in particular to review and amend the Constitution (Article 50). Consequently, the protection of fundamental rights constituted by the Parliament's prohibition to delegate its legislative power in the area of criminal legislation

and legal process (Article 66) can be bypassed by a modification of the Constitution operated by the Halk Maslahaty. Accordingly the Constitution enshrines the two main elements of the notion of the rule of law: the separation of powers and the principle of legality. But the lack of an independent Constitutional Court prevents the above principles from being effectively protected. There are no available remedies to enforce the primacy of international law on domestic law nor to review the constitutionality of laws.

Furthermore, the very notion of the rule of law - that is the legal security that is inherent to the rule of law - is permanently called into question by the fact that the Constitution is flexible and that the confusion of powers is institutionalised. If the Turkmen Constitution were to respect fully the Human Dimension commitments on the rule of law, it should first set precise rules to govern the use of constitutional power and, second, create a constitutional court with the competence to review the constitutionality of laws.

III. THE FACT-FINDING MISSION

A. The so-called "Attempt of 25 November"

The starting point of the investigation is the attempt on the life of President Niyazov. But the circumstances of this attempt are surrounded by mystery. The situation in the country was apparently calm, despite the high level defections and the repeated purges that shook up for the first time the state security apparatus. Like every year, President Niyazov signed on 23 November 2002 an order for the pardon of nearly 8,000 prisoners in accordance with the Law on Pardoning and Amnesty in Turkmenistan, on the occasion of the *Holy Gadyr* Night 26 to 27 November⁷.

As stressed by the Turkmen authorities themselves, in their national report of May 2002 to the Counter-Terrorism Committee pursuant to Security Council Resolution 1373 (2001) (S/2002/580): *"In Turkmenistan, there are no organisations either directly or indirectly linked to terrorism (...) In order to avert crimes directly or indirectly related to terrorism, the law-enforcement organs of Turkmenistan in their day-to-day activities are constantly performing work of a routine preventive nature (...) The law-enforcement organs of Turkmenistan in their day-to-day activities within their field of competence, implement measures to prevent terrorism and arms-and-drug-trafficking, and combat organised crime. In this connection, on the basis of international instruments and the national legislation of Turkmenistan, they maintain the relevant co-operation with the competent organs of other states, including exchange of the necessary information"*. In a letter dated 4 October 2002, the Chairman of the Counter-Terrorism Committee requested Turkmenistan to provide a supplementary report by 27 December 2002 (S/2002/1162). This report is still awaited.

Taking into account those measures, which show the extreme vigilance of national authorities, the attempt constitutes a surprise. It is even more surprising given the fact that when the attempt was officially announced, the President found himself in the capacity to describe it very precisely, with all its ins and outs. Yet it was immediately said that *"President Niyazov was not hurt and even claimed not to have noticed the incident while it took place and have been informed about it upon his arrival at his office"*. Making the assessment of the affair, on 30 December, when addressing to the extraordinary 13th session of the People's Council of Turkmenistan, President Niyazov said: *"Some foreign leaders informed me some six-seven months ago, four months ago, that there are people who would like to stage a revolt in your country in Sanjar (November). But I didn't pay attention to this because we believe our people. Such kind of dishonest people, hired dishonest people, came*

⁷ More precisely, 7,643 prisoners and among them 162 foreign citizens.

to our country to carry out a coup d'état. In order to hide and whitewash their dishonest deeds, they tried to address honest people. So people who don't even know their native language and religion and who are completely dishonest tried to become the leaders".

Nearly two months after the incident (on 25 January 2003), the President commented this apparent contradiction in the following way: *"Niyazov says he ignored warnings. Our great fault was that we have been too complacent and did not expect such things might occur. Though I received a couple of warnings that there were such plans I simply ignored them because I was sure that nothing of this kind could happen and that our people would not accept it"*. Finally, while addressing the military units, for the State Flag speech on his 63th birthday (on 19 February 2003), President Niyazov seemed to expel his enemies of history: *"You courageous chaps should know from past history that never in Turkmen history has there been a traitor – not in good times nor in times of misery. The Turkmens never knew what treason was and never did they betray their homeland and their nation. Never did they set a plot against their own people and nor did they allow others to fool them"*.

About how the attempt really happened, several official versions followed one another. The President announced himself the attempt with very precise explanations: *"President Niyazov said his political opponents - four former government ministers - organised the attack. In a televised speech, he said the gunmen, who allegedly fired shots at his motorcade were detained. Speaking at an emergency cabinet meeting the same day as the assassination attempt, Niyazov said a truck pulled out and blocked the path of his car. Attackers then opened fire on the presidential convoy for the truck and two other vehicles. The president said the truck ran over a traffic police officer, who was hospitalised and underwent surgery. The Interfax news agency reported one of the president's bodyguards was injured"*. The semi-official *Turkmenistan.ru* indicated that at least two attackers were killed at the scene of the incident. The website went on to say *"several of the criminals were taken in custody, the remaining ones succeeded in going in hiding"*.

On 26 November, the presidential spokesman Serdar Durdiev added that *"16 people have been arrested in connection with the assassination attempt, four of whom are citizens of Georgia"*. At the same time, Memorial said a more accurate figure would be closer to 100. Georgia's Head of the State Intelligence Department Avtandil Isoseliani said ethnic Georgians detained in Ashgabat did not take part in the assassination attempt on President Niyazov, but were detained because they did not have Turkmen visas.

During the "full report" presented on *Watan News Program* on December 18 by Prosecutor General Mrs. Gurbanbibi Atajanova, she mentioned circumstances that

"were revealed by the investigation commission during the preliminary investigation of organised terror acts that took place on November 25, 2002, approximately at 7:14 a.m. along Turkmenbashi road of Ashgabat city (...) In the early morning, member of the criminal group, senior engineer of the Institute "Turkmensuwdesga" (Turkmen Water Facilities) Mr. Hatamov Annamurad waited along Archabil highway in his car and saw the Presidential cortege heading to the Presidential Palace, and informed Guwanch Jumayev by saying the coded phrase "I am coming to work". At approximately 7:10 a.m. in the morning on November 25, 2002, when our dear President, Saparmurat Turkmenbashi the Great was driving to his Palace by Turkmenbashi Road of Ashgabat and after he passed nearly Yashlar Street, they started trilateral shooting from machine guns and rifles and created a danger that could have resulted in human losses and thus violated the public security. However, criminals could not execute their criminal act till the end and escaped from the place of the incident. Their intentions to destroy the true legal government in Turkmenistan and forcefully take over the government by using arms did not succeed. Hostile bullets did not hit our dear President, our esteemed leader Saparmurat Turkmenbashi the Great and he was saved from the bullets of criminals During the shooting, the bullet shot by criminals wounded four

soldiers of State Road Traffic Control Service, namely Halmyradov, Aklyyev, Achylov and Bashimov. Currently they successfully recovered and checked out from the hospital".

The "testimony" of Mr. Hatamov appears in the same TV report:

"On November 25, 2002, I woke up and went to the said place with my car alone and stood nearby the intersection of Garashsyzlyk and Archabil roads at 6:15 a.m. There were two officers of State Road Traffic Control Service in the intersection of Grashsyzlyk and Archabil roads. As I remember at 07:05 a.m., Presidential cortege consisting of seven cars with two Mercedes cars with sirens on the top in the front followed by the Presidential Mercedes, which were followed by four other cars. Once I saw, I informed them as agreed by saying, "I am coming to work". So, whoever had walkie-talkie should have heard me. Our criminal intentions on that day did not succeed and on the same day after 20:00 (o'clock) when I was coming from work, I threw my walkie-talkie to the Garagum Channel passing nearby the Shor town".

This unique testimony is obviously incoherent. It is indeed hard to believe that a car could stand still during fifty minutes at a sensitive crossroad, in the view of security officers, without drawing their attention to it. Furthermore, one can legitimately wonder about the reasons to expose a watcher, as the presidential cortege is driving down the same way every day, at the same hour, with a remarkable regularity. It is not said whether the conversation has been intercepted and in which conditions the cortege has been attacked. It has to be recalled that the presidential cortege is driving at high speed on a route, which is carefully checked hours before. It is thus hard to see how the road police did not notice the presence of a suspicious car parked at the first crossroad but also of three other cars packed with weapons on the very place of the attempt. In the absence of more precise information, one can only be surprised by this contradiction: on the one hand, the attempt was hardly noticed, and on the other hand, it was almost immediately described in explicit detail.

Furthermore, very little information was made public about the murder attempt itself, whereas the attention was focused on the *coup* that otherwise should have followed. It would have been nevertheless indispensable to examine the place of the attempt, to reproduce bullet impacts on the walls and to study the ballistic report, to proceed to forensic expert evaluation and to meet wounded persons and other witnesses.

Failing that, two conclusions can be drawn, based on the current state of the investigations. First, it is not possible to decide between the different scenarios of the murder attempt (which is to be condemned whomever it comes from and whatever its purpose). Second, the suddenness of the announcement made by President Niyazov immediately after 25 November, not only challenges the principle of the presumption of innocence but also casts doubts on the credibility of the official version.

B. The first wave of repression

According to a credible source, during the first days, a few hundred persons were arrested, but some of them, especially women and young persons, were freed with the obligation not to leave. According to one source, 54 persons were charged with the attempt. Another source gives the number of 67 persons. There are few dozens of persons more who were arrested being caught by the wave. The overall number of those who were accused of criminal charges and will be indicted is over 100 including relatives and those charged on other grounds. In practise, there are three groups of persons repressed: those accused of being directly connected with the attempt, relatives of these persons, against whom charges have been artificially created and finally, persons who have been targeted on political grounds without any connection with the so-called attempt.

It is neither possible nor useful for the Rapporteur to find out whether or to what extent there was a provocation, whether the failed attempt was a means of short-circuiting another plot, as the clandestine presence of Mr. Shikhmuradov could suggest. In any case, the gross failure of the murder attempt will be taken as a pretext for a general repression against the whole spectrum of the regime opponents. Whatever the involvement of the ones or the others in this provocation, the essential thing is to determine if due process of law has been respected for each of the accused.

In his public announcement of the attempt, given at an extended meeting of the Cabinet of Ministers on November 25, President Niyazov accused the opposition in exile, namely the former Foreign Minister Mr. Shikhmuradov, the former Chairman of the Central Bank, Mr. Orazov, the former Ambassador to Turkey, Mr. Hanamov and a former agriculture deputy-minister, Mr. Ykymov of having organised it. Large-scale investigations began immediately. The office of the General Prosecutor of Turkmenistan filed a criminal case against 16 alleged suspects involved in the attempt while the Presidential Spokesperson confirmed the accusation to the aforementioned former officials and added that some unidentified Russian politicians protected them. Officially, according to a press conference of the Turkmen Ministry of Foreign Affairs, on November 26, 16 arrests took place including four foreigners. According to several sources, more than 100 persons were detained as suspects and investigations involving questioning of entire residential blocks of the area where the attempt took place were going on. Others have allegedly been detained or questioned in connection with past association with other accused.

On December 2, the General Prosecutor announced that a number of 23 persons had been arrested as being involved in the attempt, three of whom were Chechen citizens, another six of Turkish nationality and one American. The nationality of one foreigner has not been established. According to the General Prosecutor, *"it was proven that former Foreign minister Boris Shikhmuradov masterminded the plot from Russia. He wanted to take power in Turkmenistan through force and to change the existing constitutional order"*. Guvanch Dzumaev, a Turkmen businessman was accused of being the attack's main organiser in Turkmenistan. In his taped confession, Dzumaev said he acted on orders from Shikhmuradov. Dzumaev's father, son and younger brother are also under arrest and the businessman pleaded for clemency for them.

At an extraordinary meeting of the Cabinet of Ministers, President Niyazov called for a review and reinforcement of the existing legislation concerning foreign nationals visiting and residing in Turkmenistan. The President announced that he would issue a decree on the subject. Foreign nationals are already required to register at the police indicating their place of residence as well as the itinerary of their trip in Turkmenistan in case of business and tourist trips. President Niyazov ordered the creation of a new special office whose task it would be to interrogate all foreign citizens upon their arrival in Turkmenistan to find out *"who is coming to the country, for what purpose, for what period of time, and when they will leave. Moreover this office should clarify the person's past, where he goes, with whom he meets. That should be an obligatory procedure. Only then will there be peace in the country"*.

The President announced also daily television broadcasts in which representatives and spokesmen of the Ministry of Interior, Ministry of National Security and the Office of the General Prosecutor will inform the public about the results of the ongoing investigations. Accordingly, on December 4, the General Prosecutor presented a first detailed report on the attempt (cf. Annex X).

A new step in escalation was the arrest of Mr. Batyr Berdiyev, former Minister of Foreign Affairs and the long-time Turkmen representative to the OSCE on 7 December 2002. After having been questioned on 27-29 November he was released afterwards. He was not

contacted again until 7 December 2002 when he was asked to come again to the Ministry of the Interior. There, he was tortured and forced to sign a confession.

On 10 December - the 7th anniversary of the Turkmenistan's neutrality (and by the way, the anniversary of the Universal Declaration on Human Rights), President Niyazov addressed vehemently the diplomatic corps: He stated that 23 persons, mainly foreign citizens had been arrested. The President stressed that Batyr Berdieyev was guilty of having participated in the organisation of the 25 November attempt. He argued that all those arrested confessed and no other evidence would be needed: *"All of them are criminals and mercenaries, paid and manipulated by Shikhmuradov and others"*. The President reiterated allegations about foreign countries being behind the attempt, this time mentioning Russia, Uzbekistan, Turkey and Azerbaijan, without however offering any concrete evidence. Unlike the first allegations about the involvement of unspecified political figures from the Russian Federation, these were not published in any media. None of these statements was published in the press or broadcast on TV, which contradicts the standard practice of Turkmen media in such occasions.

On 12 December, Turkmen media informed that Mr. Tagandurdy Hallyyew - a former legal advisor of President Niyazov who had been recently chairman of the Mejlis (Parliament) - was involved in the organisation of the assassination attempt. According to the official information, on 24 November, the day before the attempt, Mr. Hallyyew met with the organisers and promised to gain support of Parliament members if they succeeded. Some sources however indicated that he is under arrest. On 14 December, the Mejlis convened for its 19th session. It issued a statement condemning its former chairman. It is not clear if the Mejlis voted for the revocation of his parliamentary immunity. The Mejlis confirmed also amendments to the Criminal Code and voted 14 bills that had been already adopted by the President, for instance about the reorganisation of the Ministry of Internal Affairs.

On 16 December, the incident took place at the Uzbek Embassy, in violation of the Vienna Convention of 1961. A protest of the Ministry of Foreign Affairs of Uzbekistan was delivered (SEC.DEL/254/02).

On 16 December, the Cabinet of Ministers of Turkmenistan decided to convene on 30 December a joint session of the People's Council, the National Revival Movement and the Council of Elders. President Niyazov stressed that during this session a comprehensive and objective evaluation of the events of 25 November would be made and legislation to reinforce security in order to prevent further terrorist actions would be considered.

On 18 December, in a new public report on TV, the General Prosecutor confirmed the charges against representatives of the Turkmen opposition abroad that were pronounced since the day of the attempt by the President of Turkmenistan himself. More details on the dynamics of the incident as well as on the alleged plot to seize the government were disclosed.

Boris Shikhmuradov allegedly directed the action from inside the Turkmenistan. He entered Turkmenistan on the 23 November from Uzbekistan with the help of the Uzbek Ambassador to Turkmenistan, Abdurashid Kadyrov, allegedly in strict co-ordination with the individual accused to be the main executor of the attempt, the businessman Guvanch Dzumaev. The account of Mr. Shikhmuradov's journey is extremely detailed – more than the dynamics of the attempt itself – such as the account on the alleged plans to overthrow the constitutional order had the attempt succeeded. One armed group, which included Mr. Shikhmuradov, was in charge of taking control of the Parliament while another was assigned to the national television. A number of legislative acts prepared in advance with the assistance of Mr. Hallyyev were to be approved by the Parliamentarians under threat of

firearms. The role of Batyr Berdiyev was to represent the plotters of the *coup* to foreign diplomats and media.

The General Prosecutor stated that after the attempt, on the evening of 26 November, Mr. Shikhmuradov was brought to the Uzbek ambassador's residence. The report continues with a detailed account on how Mr. Shikhmuradov together with other plotters hid there until 7 December, while the Uzbek ambassador looked for possibilities to get him out of the country. Nothing is said, however, on what happened afterwards. During the General Prosecutor's statement some of the confessions, such as that of Batyr Berdiyev and Taganturdy Hallyev were also broadcast. The report as appeared in the press seemed to be based mostly on those confessions. Direct reference to them filled almost half of the printed version of the report. It is worth noting that all the detainees confessed and also repented immediately or shortly after their arrest. Details of the different confessions make them perfectly fit with each other.

Various sources mentioned figures up to 700 detained, with arrests only based on a relationship with suspects. Such arrests included women, children, youngsters and elderly persons. Relevant embassies were not granted access to the detained foreign citizens. In addition, questioning of Turkmen citizens by law enforcement agencies seems to have taken on huge proportions and involved persons who are not even remotely related to the persons accused of the attempt. Some persons were dismissed from their jobs after questioning, without any legal or functional basis for this decision. Security measures have been stepped up. Cars, even diplomatic ones, are frequently stopped and searched.

The arrest of Boris Shikhmuradov marked a brutal speed-up in the course of events. According to the communiqué published by Memorial on the 26 December:

"News agencies report that the President of Turkmenistan Saparmurat Niyazov has announced the arrest of Boris Shikhmuradov, the leader of the opposition People's Democratic Movement of Turkmenistan, during a meeting with foreign ambassadors accredited in Ashkhabad. According to the official version, Shikhmuradov illegally crossed the border into Turkmenistan from Uzbekistan on November 23. Early reports of the detention of Shikhmuradov came from independent sources in Ashkhabad yesterday evening. At around 14:00 Moscow time the Gundogar web site posted a statement by Boris Shikhmuradov dated December 24. In the statement the ex-minister writes that he has been in Ashkhabad since September this year and that at the end of November his followers were planning to organise mass anti-government demonstrations in all the regions of the country to demand free parliamentary and presidential elections. Shikhmuradov denies any complicity in the attempt to assassinate Niyazov and claims that the attack on the presidential motorcade "was a put-up job organised by the authorities to pre-empt the events and make short shrift of the opposition". According to Gundogar web site, Shikhmuradov gave himself up to the National Security Ministry of Turkmenistan".

C. The due process of law

There is a terrifying contrast between the opacity of the criminal procedure and the publicity given to the show trials, broadcast by Watan TV. In this regard, the video broadcast by the Turkmen authorities themselves that showed the indictment is the self-incriminatory revealing of an expeditious justice that violates all the principles of a fair trial.

i. The trials:

The conditions in which the trials took place are appalling. Access to tribunals by foreign observers, in particular diplomats, was not allowed, in contravention of the OSCE commitments. The relevant substantial principles contained in the Vienna and Copenhagen documents are well known. Concerning judicial observation, the importance of § 12 of the Copenhagen Document should be recalled:

“The participating States, wishing to ensure greater transparency in the implementation of commitments undertaken in the Vienna Concluding Document under the heading of the human dimension of the CSCE, decide to accept as a confidence building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law; it is understood that proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments”.

The Constitution itself, in its Article 105, states that *“In all courts, trials are open. Closed hearings for a case are only allowed when anticipated by law and with adherence to all rules of legal procedure.”* Nonetheless, it seems that security reasons were not invoked to justify *in camera* trials. If it had been the case, such justification would have been contradictory with the very concept of show trials. In practice, the dates and location of those trials remained uncertain to avoid any effective observation. In the official responses to diplomatic protests, Turkmen authorities pretended that the presence of diplomats would prejudice the judges' impartiality. This explanation is not admissible and even less credible.

Turkmenistan's interest in the independence and impartiality of justice should result in concrete steps, beyond the general principles of Article 101 and subsequent of the Constitution, in particular when the separation of powers and the statute of the judiciary are at stake. Similarly, the existence of an independent bar is the pre-condition for the full respect and observance of the rights of defence. There again, all the testimonies converge to prove that this independence is not fully guaranteed. With no access to a lawyer, the prisoners are detained *incommunicado*, isolated from the outside world and deprived of the presumption of innocence. They are not privy to the content of the indictment and are unable to prepare their defence. They are thus deprived of their right to a fair trial, in accordance not only with all the existing international standards, but also with the established constitutional principles. This mockery of justice infringes upon Article 107 of the Constitution, which stipulates: *“Justice is implemented on the basis of the adversarial nature and equality of parties. Parties have the right to appeal the decisions, sentences, and other judicial decisions of any of the courts of Turkmenistan.”* Similarly, Article 108 specifies: *“the right to professional legal assistance is recognised at any stage of the legal process.”*

Deprived of the elementary guarantees of the rights of defence and of effective judicial remedies, the accused are victims of a blatant denial of justice - from an arbitrary detention to an expeditious trial on the sole basis of forced confessions. The carefully selected sequences of videotapes and news programs prepared by the Turkmen authorities are self-incriminating by shedding light on a type of justice that belongs to the most sinister chapters of contemporary history.

It seems obvious that the accused were tortured. Images of stereotyped public confessions read in a monotone way evoke moral and physical mistreatments during the questioning. According to Article 21 § 2 of the Turkmenistan Constitution: *“No one may be subjected to torture or cruel, inhumane, or degrading treatment or punishment, or, likewise, be subjected without her or his consent to medical or other experiments.”* Furthermore, Article 42 specifies: *“No one may be forced to give testimony or explanations against herself or himself or close relatives. Evidence acquired under the influence of psychological or physical pressure or other unlawful means does not have legal force.”*

The weight given to the confessions from the beginning infringes both constitutional principles and international norms. The Constitution specifically provides for the nullity of such “evidence”. In conformity with this fundamental principle, it is indispensable to nullify all those procedures and to guarantee to all the accused the full exercise of the rights of defence, as well the right to have his case heard publicly before an independent and an

impartial tribunal. Moreover, it is necessary to recall that according to Article 41 of the Constitution, “*citizens have the right to restitution in a legal manner for material and moral harm, suffered as the result of the unlawful acts of governmental organs, (...)*”⁸.

It is enough here to mention the case of Mr. Shikhmuradov, whom the authorities wanted to be exemplary. The most tragic show was given on 29 December 2002: the unrecognisable image of Mr. Shikhmuradov appears on the TV screen with the subtitle: “*terrorist*”. In other images, the former Minister for Foreign Affairs appears in a cage in the middle of a small room, in front of judges dressed in plain clothes. Other images show ranks of prisoners, hands tied in the back by guards crouching, some of them wearing a black mask.

According to the description made by *Memorial*:

"Tonight Turkmen TV aired a repentant statement by Turkmenistan's former Foreign Minister Boris Shikhmuradov, who had been arrested in Ashkhabad on December 25. According to the official story, Shikhmuradov was detained in a downtown flat, and drugs were found in the pockets of his clothes. The opposition leader, his eyes downcast, was clearly reading from prepared text as he admitted his complicity in the abortive attempt on the Turkmenistan president's life and in arms theft in 1994. Shikhmuradov said that before arrival in Turkmenistan he had been hiding in Moscow, where together with other opposition figures he had been "using drugs" and "recruiting mercenaries for the perpetration of a terrorist act". He also "manipulated" Russian journalist Arkady Dubnov: in a meeting with him in late November he had asked him to use Russian TV channels "to misinform the public about what had happened in Asghabad on November 25". The ex-minister urged his associates to surrender to the authorities and referred to President Niyazov as "a gift from above to the people of Turkmenistan".

It is clear enough that Shikhmuradov's so-called confession was dictated to him by Turkmenistan's secret services. Boris Shikhmuradov's sister Larisa, a Moscow resident, has told *Memorial* that on December 26 her brother had had just one meeting with lawyer Victoria Bagdasaryan, and on December 27 the lawyer received for perusal the indictment in the Turkmen language, which neither the lawyer nor the defendant speak" (cf. *infra*).

ii. Political justice

On December 30, the XIII^o extraordinary joint session of the People's Council and Galkynysh National Revival Movement took place under the chairmanship of President Niyazov. This popular assembly of 3,000 delegates from all provinces of the country met to discuss the proposal refused by the President, to "reinstate" a legal provision on death penalty. According to the Chairman of Parliament, death penalty as a criminal punishment was abolished in 1999. However, it could be resumed by the People's Council decision as the Council is the highest body of representation for the Turkmen people and thus has the constitutional authority to do so.

The General Prosecutor of Turkmenistan, in full uniform reported on results of the investigation and described details of the plot organised against President Niyazov. During her report the video-recorded confessions of the accused were shown on a big TV screen. In his confession, Boris Shikhmuradov acknowledged that he had committed the crimes, that he was "*a terrorist and a betrayer of his motherland, that while living in Moscow he used drugs along with other so-called members of the opposition and had conceived the assassination attempt to overthrow the constitutional order in Turkmenistan*". The investigation will continue, in order to uncover and bring all terrorists to justice and find out who is behind all these events, concluded the General Prosecutor.

⁸ Cf. Part. V, for the list of individual cases.

Whereas Mr. Shikhmuradov had been declared guilty of 15 counts and convicted to 25 years of imprisonment, his case was discussed before the People's Council. All the speakers tried to outbid on the demand that death penalty be re-established, but the unanimous President invoked international considerations to refuse to go reintroduce the death penalty. President Niyazov proposed instead to amend the Criminal Code by providing for "life imprisonment" as the most severe criminal punishment for state betrayers. Thus, it was proposed that the punishment for Mr. Shikhmuradov be changed from 25 years into "life imprisonment". The proposal was unanimously adopted. The Supreme Court judge also informed that Nurmukhammed Khanamov and Khudayberdy Orazov were tried *in absentia* and were found guilty. The People's Council approved the same sentences for both of them.

From a procedural point of view, it is obvious that these decisions are in breach of all the most elementary principles of the rule of law. On the institutional level, there is a violation of the separation of powers between the executive, the legislative and the judiciary, as well as the hierarchy of norms. And on a more substantial level, the rule according to which all crimes and penalties must be provided by law, as well as the non-retroactivity of criminal law are violated. As stipulated by Article 21 § 1 of the Constitution: "*A citizen may not be limited in her or his rights, deprived of the rights which belong to her or him, convicted, or subjected to punishment, except in exact accordance with the law and as the decision of a court.*" Similarly, according to Article 43: "*A law, worsening the condition of a citizen, may not be ex post facto. No one may be liable for an act which at the time of its commission was not a violation of the law.*"

Moreover, the very notion of legality is called into question here. Yet according to Article 2 of the Constitution:

"The people are the possessors of the sovereignty of and are the only source of the governmental power of Turkmenistan. The people of Turkmenistan exercise their power either directly or through representative organs. No part of the people, no organisation, and no individual has the right to arrogate governmental power."

The commanded unanimity of 3,000 persons, most of whom are chosen in a discretionary manner, cannot reasonably be considered as a regular procedure to revise the Constitution. Even though the People's Council had legislative or constitutional powers, the fundamental principle of non-retroactivity of criminal law applies nevertheless both to crimes and punishments. The by-right participation of 50 MPs in the People's Council or the subsequent validation by the Parliament of those decisions does nothing to solve the problem.

The legality of "accessory penalties" should also be reviewed. For instance, Mr. Shikhmuradov was at first sentenced to 25 years of imprisonment with confiscation of all his property. A further fine of \$2,8 millions in damages was imposed on him. Subsequent convictions, of a punitive nature, like the stigma of "*betrayed to the nation*" added to the previous sentences, call into question the principle *non bis in idem*. The same point can be made about orders of confiscation or collective sanctions decided at the local level on the recommendation of the Supreme Court (cf. *infra*).

D. Conditions of detention

Conditions of detention in prisons and camps in Turkmenistan have always had a very poor record. Failing any official information, it is thus necessary to make use of the remarkable work done by NGOs. The *Memorial* report on Human Rights in Turkmenistan (1995-1998) which until now has only been published in Russian gives a particularly accurate and reliable account of the situation at the end of the 90s. Nothing indicates that the situation has improved since. On the contrary, the waves of repression that have been following one another during one year resulted in the hardening of the system, in particular as far as political opponents and their relatives are concerned. Even if the location of detention premises may

have changed, the nature of the system of repression remains the same. According to a former detainee, "conditions in prison are appalling, reminiscent of concentration camps. Prisoners are starved, tortured, raped, and beaten to death. Many develop tuberculosis".

Without any public data and without the possibility of making an on-site visit, the OSCE Rapporteur is not in the position to shed light on the substantive elements to which the *Memorial* report is referring. He can only take note of the single independent evaluation that has been made in recent years. Here is an important extract of an English translation of the report made at the Rapporteur's request:

"Generally speaking, the conditions of imprisonment and detention in Turkmen SIZO and ITK are very bad. The major problems are: over crowding of the prisons (during the last ten years, the number of prisoners has doubled and new prisons were not build), the lack of food and the poor quality of the food available, the lack of medication, unsanitary, epidemics (dysentery, tuberculosis, scarab). Information on particular ITK and SIZO shows that nowadays, prisons count four times more prisoners than they can accept. For example, according to a former prisoner, in 1996, Tchadrjov's ITK-8, conceived for 980 persons, counted 3,800 prisoners. Former prisoners of other "centres" confirm the existence of similar proportions (SIZO in Mary, Ashkhabad, two ITK in Turkmenbashi, etc.)

Because of the over crowding, a particularly difficult situation has evolved in SIZO, where prisoners are detained in covered cells. In spring, the temperature can reach +40 C°. There is a lack of fresh air that prisoners have to "buy". In other words, they give money to guards for the opening of the cell's door. Difficult conditions have lead to several attempts of rebellions. Those attempts were severely repressed. In camps, the overall situation is slightly better than in SIZOs, but difficult conditions of detention, during long periods, lead to a high mortality rate of prisoners. A lot of them suffer from a number of illnesses, particularly from tuberculosis. Medical treatment is almost non-existent.

Prisoners are starving. In a special report of the Amnesty International of March 1996, in Bairam Ali's ITK, because of the lack of food, prisoners were eating cats and dogs. In July 1995, RFE/RL received a letter from Baimurad Baimuradov who was living in Bairam-Ali. The latter confirmed that prisoners consume cat's meat and there were even cases of cannibalism. Nowadays the situation has not changed a lot. According to a former prisoner, in 1997, in the Krasnovodsk prison, man could buy a cat's corpse for 35,000 Manat (6.5 dollars), a drinking bowl of rice for 40,000 Manat, and a head of garlic for 20,000 Manat. The guards have even established a sort of "standard prices" for other food products.

Because of the over crowding, ITK's prisoners sometimes have to stay outside. In summer time they suffer from the heat and in winter from the cold.

The personnel of Turkmen penitentiary institutions are corrupt. Prisoners can unofficially purchase a number of "services ranging from drugs and women, to the transfer to "hospital" (there is a tax both for the transfer itself and for every week spent in a "hospital).

Sometimes these services are compulsory. For example, in January 1998, during a sharp frost, a rich, but physically weak prisoner had to pay guards 200 dollars in order to receive a permanent place in a cell (information comes from the prisons in Bezmein and Mary).

A former prisoner describes the situation in a prison near Turkmenbashi as follows: "All prisoners are living in the same barrack. The cells are designed for 4 people, but only those who can pay for it are allowed to stay there. Others have to share this small cell with 20 to 35 people.

Parcels and visits are regulated by rules in force since Soviet era. In fact, for money it is possible to get everything: visits, all kind of parcels, including alcohol and drugs. Heroin and opium are available and spread in the prison. A two-day visit costs

100,000 Manat (nearly 19 dollars). However on a New Year's eve, the price raises to 50 dollars. The parcel costs 20,000 Manat. A one-night stay with a woman costs 100 dollars (plus a fee). ITK's female collaborators earn additionally by prostitution. Generally, prisoners are suffering from skin diseases, for example scabies. Because of the poor water quality, new prisoners are suffering from dysentery. Tuberculosis is mainly the illness of ordinary criminals. Mentally ill people are living among normal prisoners".

The report stresses in particular the situation in the Ministry of Interior's SIZO in Ashgabad :

"A very difficult situation is characterising the Ministry of Interior's SIZO located in Ashgabad. In 1996, Turkmen service of RFE/RL made public a letter of a former prisoner Murat Annaguliev describing in details the state of detention on this SIZO. SIZO's building has two levels. On the ground floor, in cells designed for 6 people, stay nearly 30 prisoners. A lot of them were arrested for robberies or drugs. On the first floor, in the same kind of cells, are staying 5-6 people, called "bankers" by other prisoners. Those have clothes and linen brought from home. In summer 1995, "bankers" were paying 20,000 Manat per month for their "privileged" cells. However, in case of a delay of payment, they were transferred to the cells downstairs. Prisoners staying downstairs, have to pay for the right to receive parcels from their families. A parcel normally consists of a loaf of bread, a melon and two packets of cigarettes. Apart from money, guards take a half of every parcel.

"In SIZO they even sell the fresh air", tells the letter's author. "Cells are not ventilated and in summer, they stink because of the sweaty human bodies... People suffering from heart diseases and asthma, as well as old people are stifling. It is prohibited to approach doors and windows. Disobey is punished by beating or refusal to go to the toilet. For obvious reasons, other cellmates prefer the first solution. A lot of people can not stand the stuffy air and prefer to pay guards for letting in a bit of fresh air". One minute of an open door, costs prisoners 1,000 Manat (5 dollars as of summer 1995).

In course of investigation, prisoners are often beaten and asked to reveal the names of accomplices (more often prisoners are giving their friends' names or names of persons that investigator obliges them to give). Later this people have to pay the police, if not they are arrested.

In 1997, the situation has not changed. According to a guard of Ashgabad SIZO, during summer 1997, 72 persons died because of the asphyxia and infarcts (official diagnosis: heart attack) including citizens of Afghanistan, used to a very hot climate. Prisoners' families confirm that they have to pay 50,000 Manat for a parcel and 100,000 Manat for a visit.

Prisoners are often beaten by guards. This can lead to death or suicides.

On the night of 27 February 1997, in protest against inhuman conditions of life, 12 prisoners committed a collective suicide. Only 4 persons were rescued. According to some sources, these young men (of 20-35 years old) were used by guards as mannequins for body-checks exercises. The bodies of dead men were given back to their families. The name of one of them is known (Meredgelda Kurbanov). Before the arrest he was living in Osipenko street, in Ashgabad.

In march 1997, Annaguli Kurbanov hang himself (according to the official version) in SIZO-1. Before the arrest he was living Tcheliabinskaia street in Ashgabad. Before funerals, the family discovered "solid bruises and fractures" on the dead body. Mr.. Kurbanov was arrested on the basis of the "capital punishment" Article 257 of the Criminal Code (drugs). To discharge him, the law enforcement agencies' officials were asking 25,000 dollars. After selling the house, the family could collect only 20,000 dollars, but this was not enough for investigators.

In the beginning of September 1997, two household prisoners died in SIZO, because of the negligence of a SIZO's vice chief.

In summer 1995, inhuman conditions lead to prisoners' rebellion in the SIZO-1. Disturbances started on 13 June 1995. According to an eyewitness, the reasons of the rebellion were unbearable conditions of detention. In cells, designed for 8 persons were living up to 40-50 prisoners. In summer, in these over crowded cells people were suffering from the lack of oxygen. OMON (Special police division) was used for the neutralisation of the rebels. Those were severely beaten. The "mangers" (holes in the cells' doors through which prisoners receive food) through which prisoners could receive additional fresh air were closed as a matter of punishment. As a consequence, several prisoners died because of asphyxia and beating. One eyewitness saw the next morning not less than 10 dead bodies. According to a former prisoner, interviewed by the authors of the report, the total number of prisoners killed was 37ⁱ".

The testimonies indirectly collected by the rapporteur lead him to the conclusion that similar cruel, inhuman and degrading treatments are systematically inflicted on new detainees. It is not only a fact of the corruption of the prison guards or the dilapidated conditions of detention: one is obviously faced here with a systematic policy aiming at shattering the detainees morally and physically.

In this regard, the importance given at the international level to the annual amnesties as well as to the abolition of the death penalty in 1999 – the “bright spot” - should be re-evaluated. According to a reliable witness, there are more deaths today in prison than before the abolition of the death penalty, whereas the official statistics were placing Turkmenistan at the very first rank of countries using the death penalty.

When President Niyazov decided upon a moratorium at the beginning of 1999, there had been 674 persons condemned to death during the previous year and almost 400 in 1997. Today, death penalty does not exist as such, that is as a penalty provided by law and executed according to the sentence of a tribunal, instead it has been replaced by a “slow” death penalty. All the testimonies converge to prove that after two years spent in the prisons, a detainee has great chances to die following mistreatments or infectious diseases like tuberculosis. Only the strongest and the youngest detainees can hope to resist physically a detention period that would last as long as 4 years. The apparent scale of long term penalties - 20 years or 25 years, or life imprisonment, depending on the accused - appears to be a cynical farce in the light of this horrible reality.

The fact that their relatives remain up to this time with no news from some prisoners in secret detention, as M. Nazarov or M. Shikhmuradov, nourishes the rumours according to which these individuals - considered as too compromising for the regime - are said to have already died in prison. During the first half of January it was presumed that Mr. Shikhmuradov was still in security pretrial detention, in a solitary cell in the basement. But a month later, on February 7, his wife, Tatiana Shikhmuradova wrote an open letter asking “to learn at least, if my husband is alive, what his condition is, since it's been over two months that I do not have any information about him”.

Similarly, as far pardons are concerned, whereas 60,000 people were granted a pardon between 1991 and 1998, 30,000 pardons were granted at the beginning of the year 1999. In 2000, 12,000 prisoners were granted a pardon and 2000 others benefited from a sentence reduction. In 2001, the number of prisoners that had been granted a pardon rose to 9000 and around 8000 in 2002. Each year the President thus empties half of the prisons to fill them again with newcomers. The main reason of this overpopulation is due to drug-related crimes. But at the same time, an extreme arbitrariness seems to prevail, security officers having every power to arrest an individual for corrupt reasons, revenge, or simply to make terror reign among the population. The systematic "criminalisation" of political adversaries or former members of the "nomenklatura" accused of money laundering or trafficking explains the

absence of "political prisoners" but indicates well enough the climate of terror and fright that reigns in the country.

A great fuss is also made about the most recent program aiming at the construction of a new prison in the midst of desert. According to credible sources, a new "state-of-the-art prison" 80 km north of Ashgabat is currently under construction to gather all detainees of Turkmenistan. It is to be a windowless prison, exposing detainees to the extreme temperatures in desert that is very cold and very hot. The current dozen prisons and labour camps are to be closed and all inmates will be transferred to the new prison, in order to get rid of the prisons which are currently located in the capital.

E. The diplomatic implications

i. Foreign nationals involved

The situation of the foreign detainees might seem more favourable than the one of the Turkmen nationals. Nonetheless, despite the official declarations of the Turkmenistan Ministry for Foreign Affairs, in particular before the Permanent Council, the treatment which is reserved to them is far from the one requested under the Vienna Convention of 1963 on Consular Relations, as well as by the international standards set for the due process of law.

The case of Mr. Leonid Komarowsky may seem exemplary. This American citizen was arrested on 26 November 2002, the day after the attack of 25 November. He has been detained since then in the prison that belongs to the Ministry for State Security. Initially, no charges were brought against him and the authorities even denied having him in prison when the American Embassy required seeing him. However shortly after, they acknowledged having arrested a "mercenary from Moldova with an American passport". He was then accused of a multitude of crimes, from murder attempt on the person of the Head of State to drug trafficking, illegal weapon trafficking and participation in a criminal group. He was never brought before a judge to review the legality of his detention and he has not yet been sentenced and is not supposed to be, to the knowledge of his family. He was assigned a lawyer, but the family rapidly lost confidence in her, as her main concern is not to defend Mr. Komarowsky's interests, as she understands very well that if she is active in defending her client, she risks the same troubles. Mr. Komarowsky is charged also with being a drug user. It is most certain that he has been drugged in prison. A videotape of his "confession" has been released on a Russian TV. Nobody from his family could recognise Mr. Komarowsky, bent over the paper he was reading with a slow voice.

It seems that Mr. Komarowsky now lives in a very cold cell together with two Turkmen nationals. He has lost a lot of weight. At the beginning of his detention he was alone in his cell, and ate only once a day. The guards also deprived him of the medications he needs, as he is a diabetic. Requests for private visits were denied as well as the request to see a private doctor. The American Embassy has been trying to gain access to Mr. Komarowsky every day since the beginning of his detention and it did not obtain authorisation to see him until Monday 17 February. It was the first authorised visit after one and a half months.

Beyond this particular case, it seems that Turkmenistan has decided to rid itself of the foreigners allegedly involved in the plot. It was announced that they would be handed over to the countries they came from, excluding those who have a double Russian and Turkmen citizenship. It is the case for the six "mercenaries" transferred to Turkey in order to be judged in this country. It is important that those trials which take place outside the country be public with all the guarantees of a fair trial, in accordance with the commitments of the OSCE

and the standards of the European Convention on Human Rights, so that at least part of the story be unveiled.

ii. The violation of the Vienna Convention of 1961 on Diplomatic Relations

This is just a reminder. The onus is on Uzbekistan to adopt a position on this question of principle.

iii. The situation of Turkmen nationals in exile

On 3 January 2003, a protocol on co-operation between the Security Council of the Russian Federation and the State Security Council of Turkmenistan was signed in Ashgabat, by the Secretary of the Russian Security Council, Vladimir Rushaylo and Defence Minister Rejepbay Arazow who had just been appointed secretary of the new State Security Council of Turkmenistan. According to Itar-Tass, *“the main organisers and perpetrators of the Ashgabat terrorist act - according to the evidence of the investigation - in most cases have double citizenship – of Turkmenistan and Russia. That is why today’s protocol envisages articles on collaboration concerning the settlement of issues relating to dual citizenship of criminals whom Turkmenistan has declared traitors”*.

But it seems that later, a more cautious view has prevailed, and the requests for extradition or deportation were not given effect. There was no specific reference to this agreement in the friendly exchange of wishes between President Putin and President Niyazov on the 19 February, on the occasion of the latter’s birthday, whereas future agreements were announced, including “on co-operation in security matters”.

It seems crucial that the Federation of Russia, as a great democracy, sticks to the principles of rule of law and human rights.

F. Collective sanctions

i. The pressures on the families and relatives

The ODHIR received a letter of Mrs. Tatyana Shikmuradova addressed to the OSCE rapporteur, which constitute a first hand testimony of the ordeal the family of the detainees:

Dear Sirs,

I, Tatyana Shikmuradova, citizen of the Russian Federation and wife of the former Foreign Minister of Turkmenistan, Boris Shikmuradov, turn to you in a tragic moment for my family. Anguishing for my dear husband, in fear for his life I gave me up to despair and decided to share my distress with you.

Let me briefly relate some points of his biography.

Citizen of the Russian Federation, Shikmuradov Boris Orazovich was born in 1949. Since 1966 he had lived in Moscow. After he had graduated from the faculty of journalism of the Moscow State University, he had worked at the press agency “Novosti” (actually “RIA Novosti”). Twice he had been assigned to the long-term missions in India and Pakistan. In 1992 he was in mission in Delhi, when he received Niyazov’s invitation to join Turkmen Foreign Ministry. From 1992 to 2001, he occupied high posts in Turkmenistan (deputy Foreign Minister, then Foreign Minister, Vice-Prime Minister, Plenipotentiary Representative of the President of Turkmenistan in Afghanistan and Caspian region). In March 2001 he was appointed Ambassador of Turkmenistan in the Chinese People’s Republic. On October 11, 2001

he made a stop in Moscow en route to Ashgabat for the celebration of the Independence Day on October 27. But he was in urgency hospitalized with the diagnosis of vessels thrombosis. A counselor of Turkmen embassy proposed to him to write a statement explaining his failure to appear in Ashgabat. But Shikhmuradov knew at that moment that he would be arrested on his arrival in Turkmenistan. Therefore, he sent in his resignation to Niyazov alluding to his frail state of health and stayed in Moscow. Being well informed about the situation in Turkmenistan he denounced Niyazov's internal and foreign policy in his statement made on November 1, 2001 through Russian mass media (Interfax, NTV, etc.), and declared the creation of the Popular Democratic Movement of Turkmenistan. The opposition prepared an act of civil disobedience in the first half of December after the holy month of Ramadan in order to compel Niyazov to renounce "the lifelong presidency".

B. Shikhmuradov was arrested on December 25 in Ashgabat and accused of organising an attempt on Niyazov's life. He gave himself up to the Turkmen authorities to avoid repressions against his family and friends. Searches, warrantless arrests and persecution of his relatives decided him to do this step. According to official sources more than 50 persons were arrested, but unofficial ones claimed that the figure was much higher – more than 500. On the next day after Shikhmuradov's arrest, a certain Viktoriya Bagdasarova came to see his mother pretending that she was his lawyer. She said that she had met with B. Shikhmuradov and he had given her the addresses and phone numbers of his relatives. She said that she had met with B. Shikhmuradov at the remand prison of the National Security Ministry and that he was fine. She also said that the authorities refused to show her the records of investigation pretending that they were written in Turkmen and neither Shikhmuradov nor she knew this language. The next day, December 27, she returned to see B. Shikhmuradov, but was not admitted to him because of the lack of some papers. She planned her next visit to Monday, December 30.

As it became known from Turkmen mass media, B. Shikhmuradov was sentenced to 25 years of imprisonment on December 29. The charges retained against him were founded on 20 articles among them contraband, illegal possession of weapons, attempting on the Turkmen President's life and the actual political system, murder, possession and selling of drugs, embezzlement etc. According to many independent sources, Shikhmuradov trial was a trumped-up case. A strong psychological and physical pressure was brought to bear upon him. His statement of "repentance" which was broadcast by Turkmen TV, irrefutably testifies that at that moment he was broken-down and spoke under duress.

Since his arrest on December 25, neither his whereabouts nor the conditions of confinement are known. It is impossible to obtain the information about which court judged his case, who presided at the sitting of the court, whether the lawyer was authorised to plead etc. V. Bagdasarova, Shikhmuradov's lawyer, was present when the court pronounced the sentence, which was recorded and broadcast on the Turkmen TV on December 29. After the trial, she refused to meet with Shikhmuradov's relatives.

According to Arkady Dubnov, Russian journalist, Shikhmuradov is detained in a solitary cell in the basement of the National Security Ministry. All visits and parcels are forbidden (Interview to the program "Zerkalo" on the Russian TV of January 19, 2003). Other sources (Central Asia News Agency ZPA, of January 15, 2003) affirm that he is kept in the prison on the Firuzinsky highway, two kms from Ashgabat.

At my instance, the friends of my husband asked the human rights organisation "Human Rights Watch" for a lawyer support. At the same time, Shikhmuradov's

sister, Larisa Shikhmuradova, addressed to a legal advice office in Moscow. But because of lack of the verdict copy, they could not intervene. As all attempts to get a copy of the verdict failed, Shikhmuradov's son, Alexander, student at one of Californian Universities, made a request to the Ambassador of Turkmenistan in the USA, to help with obtaining of a copy of the verdict on his father's case. Larisa Shikhmuradova made the same request to the Ambassador of the Turkmenistan in Moscow. They had no answers so far.

Shikhmuradov's younger brother, Konstantin was arrested on suspicion of swindle and extortion on December 7. Someone accused him of extorting one thousand dollars. Several days later, he was accused under 15 articles, including murder, illegal passage of the border, contraband, illegal possession of weapons, attempt on the President's life etc.

According to some sources in Ashgabat, the trial took place on January 20-21. Among defendants except K. Shikhmuradov, there were Batir Berdiev, former Foreign Minister of Turkmenistan and former Ambassador of Turkmenistan to Austria and the OSCE, Yazgeldi Gundogdiev, former chief of the International Department of the Presidential Administration, General Akmurad Kabulov, former frontier troops commander, and Rustam Djumaev, former manager of the Foreign Ministry of Turkmenistan.

The Court pronounced the sentence on January 21. K. Shikhmuradov was sentenced to 17 years, R. Djumaev - to 18 years, B. Berdiev - to 25 years and Y. Gundogdiev - 25 years. All sentences trigger the total confiscation of property. The authorities tried to force K. Shikhmuradov to disown his brother. But he declared that his only crime was that he was Boris Shikhmuradov's brother and he was proud of it.

Some lawyers testified that they were forced to give receipt of non-disclosure of details of the hearing and also to keep silence about the defendants' appearances, as traces of torture were evident.

The situation of the Shikhmuradov's relatives is terrible. His mother, 85 years old woman, undergoes interrogations and searches every day. Her relatives and friends are afraid to visit her because of the threat to be arrested. The Shikhmuradov's house had been sealed up a month before the trial. And his family is under the threat of expulsion to the desert region at the border of Kazakhstan. Ayna Shikhmuradova has no information about the whereabouts of her husband. She has no possibility to meet with her son, Murad, who serves 25 years sentence in a high security prison. Murad had been arrested on March 21, 2001, on suspicion of murder. Ayna Shikhmuradova has no means of subsistence.

There is information about illegal confiscation of Shikhmuradov's property by the Turkmen authorities. Their flat in Ashgabat had been confiscated already in November 2001. The cars of all Shikhmuradov's relatives were confiscated without any legal motivations. Even the cars, which had belonged to Shikhmuradov's relatives and had been sold to strange people many years ago were confiscated too.

Niyazov repeatedly made in public some groundless and absurd statements. For instance, he declared that B. Shikhmuradov owned several buildings in Ashgabat, 15 cars (which had been confiscated) and even that "Shikhmuradov, Khanamov and Orazov each had 10-15 wives". Niyazov repeatedly declared that the legal proceedings of the case of "illegal sell of weapons" (fighters, machine guns etc.) had been instituted immediately after his departure as Ambassador to Peking at the beginning of April 2001. According to him, the credentials were handed over to the

President of the Chinese People's Republic at the end of April 2001, by an "enemy of the state". There are a lot of such discrepancies which are nothing else than a downright lie, in numerous statements of the President Niyazov, the public prosecutor, K. Atadjanova, and other Turkmen officials.

On February 4, the Council of the People of Turkmenistan (the Supreme legislative body) adopted a law in which it determined the concept of "parricide" and established the punishment for it - lifelong imprisonment. Everyone who committed any action which "represents a danger for the population", everyone who was aware of it and did not inform the authorities and everyone who "put personal interest above the national interest" can be sentenced to the lifelong imprisonment. In this way, soon every Turkmen citizen may be accused of parricide.

Niyazov frankly ignores the international community and tries all ways to hamper the work of international organisations. He declared recently that "OSCE is no authority for us", and delegate his Foreign Minister, Rashid Meredov to the headquarters of the OSCE in Vienna in order to prevent the visit of its experts to Turkmenistan. In such a way he hopes to deceive the international community and to preserve his dictatorship in Turkmenistan. It is my opinion that the truth about the situation in Turkmenistan must be carried to all governments, all international organisations and finally to all citizens. The publicity is the worst thing Niyazov is afraid of. This fear is responsible of toughening of the visa regime. Since March 1, the entry visas will be delivered only with permission of a special commission.

Dear Sirs, I am begging you to make use of all the authority of your organisation in order to restore the justice and to save life and honour of my husband, Shikhmuradov Boris Orazovich. I hope you will help my family and families of other Russian and Turkmen citizens who became hostages of Niyazov's dictatorship.

*Best regards,
Tatyana Shikhmuradova*

According to several other testimonies made public by *Memorial*:

Reprisals are not confined only to those whom the secret police have accused of complicity in the plot. The authorities are taking advantage of the situation to crack down on the relatives and other dissidents on trumped-up charges, reports from Turkmenistan say.

Political emigre Gulgeldy Annaniyazov who lives in Norway told *Memorial* that after his interview to Radio Liberty's Turkmenian Service aired on December 28, his brother Charygeldy and Davletgeldy Annaniyazov and the neighbors named Ata and Garyagdy were again detained by the police. The Annaniyazov brothers were charged of committing a crime and their relatives were told by the police to "look for a lawyer". Serdar Atayev and former participant in an anti-government demonstration of 1995 Kakamurat Nazarov were arrested in December for having contacts with Annaniyazov (for more detail see *Memorial* press releases of December 1 and 29, 2002).

The special services are bringing pressure on the relatives of former deputy of the Turkmenistan parliament Arigul Tadjiyeva who lives in Ashgabad suspecting her of having given an interview on drug addiction and social problems in Turkmenistan to Radio Liberty's Turkmenian service under an assumed name. Tadjiyeva has been in Moscow since October 2002.

The National Security Ministry has also threatened to arrest Charymuhammed Khadjiyev demanding that his elder brother Annadurdy Khadjiyev who lives in Bulgaria should stop giving interviews.

The relatives of Saparmurad Yklymov living in Sweden continue to be persecuted. He was given a life sentence in Turkmenistan in December, in absentia, for taking part in a "conspiracy" against Niyazov. After the events of November 25, dozens of Yklymov's relatives were detained in Ashkhabad. Many of them were later released, with no charges brought against them. But according to information that has been received by Memorial, in December "almost all the adult members of the Yklymov family were beaten and cruelly tortured in order to find out the whereabouts of Yklym Yklymov (Saparmurad's brother). Among those tortured was 72-year-old Ata Yklymov (Saparmurad's uncle). His condition is now very serious. His son Kemal Yklymov, born in 1957, was charged under several articles of the Criminal Code. 27-year-old Olga Prokofieva (the civil wife of Yklym Yklymov) is still in custody. Olga, her mother and sister were tortured by electric shock, beaten with rubber sticks and plastic bottles filled with water by the members of the National Security Ministry.

On January 13, 2003, Esenaman Yklymov, born in 1969, was sentenced to five years in jail by the Supreme Court of Turkmenistan for "illegal possession of ammunition". Esenaman's brother, 20-year-old Aili Yklymov, who studies at a Moscow college, had his passport taken away from him by the National Security Ministry upon arrival in Turkmenistan in mid-November so that he is unable to leave the country. There is reliable information that in the course of the investigation Esenaman Yklymov was cruelly tortured and almost lost his hearing as a result. After the trial, the Turkmenian television showed pictures of "Esenaman repenting" when, speaking in front of the camera, he disavowed his relatives allegedly "complicit in grave crimes".

On January 15, a part-time worker of the Moscow office of Radio Liberty's Turkmenian Service Orazmuhammed Yklymov (father of Esenaman and Aili) asked for a political asylum in Austria. It was earlier reported that the Turkmenistan authorities were preparing a request to the Russian Prosecutor General's Office to extradite Orazmuhammed Yklymov.

On January 13, the furniture and other personal property were confiscated and taken away on trucks from the Ashkhabad house of Saparmurad Yklymov's brothers Amanmuhammed, Orazmamed and Yklym and their mother Edzhebai. In the morning of January 14, 75-year-old Edzhebai and more than 20 other relatives of the Yklymovers, mainly women and children who after the November arrests shared a one-room flat (flat 7 at 11 Shota Rustaveli street) belonging to one of their relatives were thrown out into the streets and all the property in the flat was confiscated.

The relatives of Guvanch Dzhumayev who lives in Ashkhabad had their property confiscated. In addition to the 4 people arrested in Ashkhabad in November, 8 more relatives of Dzhumayev who lived in the Lebap district were arrested in the last two months. Of the 12 arrested, 7 were accused of being involved in the plot against Niyazov.

Various sources report that members of the families of the accused are threatened with deportation to desert areas in the northwest of Turkmenistan close to the border with Kazakhstan. On January 6, 2003, President Niyazov, speaking at a meeting of the Cabinet of Ministers, criticized the security agencies on the ground that his order of November 18, 2002 *"on resettlement of unworthy citizens of the Dashokhovuz, Lebap and Akhal regions to the northwest of the country has still not been fulfilled"*. He said that *"the current political situation in Turkmenistan calls for early neutralization of these harmful elements"*.

According to Saparmurad Yklymov, on January 13 his relatives were told that they would be deported to Mangyshlak in the next few days. Another source has reported that the members of the Dzhumbayev families living in Ashkhabad also fear that they will be deported to the North of Turkmenistan. On January 19, political emigre Makhmut Kurbangeldyev, who lives in Austria learned that the widow of his brother and five of her children living in the Takhtinsky district, Dashoguz region close to the border with Uzbekistan will be forcibly resettled. At this writing the Memorial Human Rights Center did not possess information about the start of forcible resettlements, but the threat appears to be quite real.

A source says that *"the children of the Yklymov family have been expelled from kindergartens and schools"*. According to other data, the children of most of the arrested "enemies of the people" do not attend school because they are harassed there. The families of many victims have been deprived of livelihood, their members are unable to get a job. Some political emigres have reported to Memorial Human Rights Center that they are unable to remit money to their relatives because many citizens of Turkmenistan are afraid to maintain contacts with the families of the "enemies of the people".

On around January 13, Akdzhagul Kakayeva, the mother of Arslan Kakayev who is on the wanted list suspected of embezzling hard currency from the Central Bank of Turkmenistan, was convicted. The Ashkhabad City Court has sentenced Akzhagul who was a secondary school teacher before her arrest, to 8 years imprisonment for resisting officials who searched her home in Dashoguz in September 2002.

Murad Garabayev who was illegally expelled from Russia in October 2002 is kept at the National Security Ministry detention centre in Ashkhabad. His sister Maya has been under investigation since September 28, accused of embezzling huge amounts of the assets of the small private firm that she heads up. At present she is at the detention centre in the city of Tedzhen.

On December 18, 2002, the Kopetdag district court of Ashkhabad sentenced to 7 years imprisonment the mother of Murad Garabayev, Sofia, and the brother of her dead father, Khalbai. Sofia and Khalbai were accused of illegally privatizing and subsequently selling for USD 2,800 in 1997, the apartment of which the official occupant was Murad's father. These actions were qualified by the court as large-scale fraud. The notary public and the official of the Public Registrar's Office who helped them to formalize the required documents got the same prison sentence.

ii. Families' harassment, housing, employment

In January 2003, the Supreme Court issued a written recommendation that relatives of the so-called 'betrayers of the Motherland' should be evicted from their houses. This document triggered the municipality to approach the families with an eviction order. The document turned out to be not a legal document but a recommendation issued by the Chairman of the Turkmen Supreme Court to the Major of Ashgabat City, in which he states, *inter alia*, that the Court hearings against those who attempted to overthrow the constitutional order and assassinate Turkmenbashi the Great are completed. A number of persons received life sentences, others were sentenced to long terms of imprisonment. At the same time the Supreme Court in its verdicts said these people are to be proclaimed "betrayers of the Motherland": *"I deem that the families of the "betrayers of Motherland" do not hold the moral right to live in the city of Ashgabat and thus I recommend you to consider their eviction from the city of Ashgabat."*

Pursuant to this so-called recommendation in a documented case from a confidential source, at the end of January, the officials read the order to the family, but did not produce a copy for them nor gave the family a chance to read the order themselves. The officials, *inter alia*, stated that according to the order of the municipality *"the family members of the*

'enemies of the state' should not be living in the centre of the city and thus should be evicted". At the same time, when asked 'where the family should then go to?' the officials failed to provide any further information or advice. However, officials did mention the registration number of the order - (B-31/7134). The X's were instructed to collect their belongings and leave the apartment in the course of the next day, giving them 24 hours time for packing and voluntarily leaving the dwelling. The family does not know where they will go, but will try to relocate in the houses of other relatives.

In a very similar case three officials from the municipality visited another family. The officials of the municipality stated that *"being related to an 'enemy of the state', the N's had no right to live in the city of Ashgabat and should therefore be evicted"*. Mrs. N was also warned that if she would fail to collect her belongings and leave the apartment, all the remaining belongings would be confiscated. When asked where she and her 12 year-old son should go to, the officials advised her to go and stay with relatives. Ms N was not provided with an official document stating the eviction. She did however manage to read part of the document and noticed that it contained a list of names. She concluded that these must have been names of relatives of so called 'enemies of the state' all facing eviction from their dwellings.

Since she planned to protest against this measure of the municipality Ms. N. insisted on receiving a copy of the official document ordering the eviction. She was then informed that the municipality officials acted upon a recommendation of the Supreme Court and that an official document would be available only the day after.

There is some confusion as far as the exact interpretation of the document is concerned. None of those facing eviction have actually read the document themselves and in the case of Ms. N. the document was translated by the officials from Turkmen into Russian. Therefore it is not clear whether eviction ultimately implies eviction from the city of Ashgabat altogether or 'just' from the centre. Since the title 'enemy of the state' was applied to all of those that stood trial it can be expected that a number of families will face eviction.

iii. Forcible Displacement of Population

It seems that systematic measures of forcible displacement have been implemented even prior to the current crisis. On 19th November 2002, a presidential resolution (*ukase*)⁹ ordered new lands to be brought under cultivation and people "willing to work in agriculture" to be moved from densely-populated areas of the country to work the new lands. The resolution seems to aim at *"the involvement of young people in labour activity by developing the newly cultivated lands and creating the necessary social and economic conditions"*. But another objective, targeting alleged anti-social elements is underlined in President Niyazov's motives of the resolution: *"At the same time, among the overwhelming majority of honest people, who take a whole-hearted and conscientious attitude to their civic duty in strengthening the economy of the independent and neutral Turkmenistan, there are certain people who with their immoral behaviour disturb the tranquillity and damage the unity of the working population. They have lost the trust of the people around them and deserve public condemnation. Today we are restoring our ancestors' wise tradition, under which such people were resettled to remote places to be rehabilitated through work"*.

These measures aim at the resettlement of "young people" from the densely-populated S.A.Niyazov District and Yylanly District of Dasoguz region *"on the housing estates of Wass and Sasenem"* in the same Region, and from the Serdarabat, Galkynys, Gaeassyzlyk and Atamyrat Districts of Lebap Region, *"on the housing estates of Altyn Asyr in Ahal Region"*.

⁹ *Neytralnyy Turkmenistan*, 19 Nov. 2002

It would be useful to examine the conformity of those resettlement measures and of the local working conditions with the international commitments made by Turkmenistan both in the UN and the ILO systems. The second part of the programme raises even more concerns. According to paragraph 4 of the presidential resolution, the Chairman resolves: *"To establish that those who disturb tranquillity in society with their immoral behaviour and do not carry out their civic duty to strengthen the country's economy, who have lost trust and deserve general condemnation, are subject to resettlement to the lands of Oguzhan of Mary Region, to Bereket District and the town of Garabogaz of Balkan Region without any privileges being granted"*.

Such vague and moralising formulas pave the way for the most arbitrary policy, based on an administrative deportation system, without any criteria or control. In addition, the living conditions - or the survival conditions - of those sanctioned are clearly uncertain, as they are deprived of the few "privileges" supposedly granted to the other categories of displaced persons. The resettlement as a punishment was incorporated into the Criminal Code of Turkmenistan in 2001 for some specified crimes, such as "misappropriation of state funds", "abuse of power and position" and similar crimes. It seems that it was brought into general use through administrative measures and without any parliamentary revision or judicial control.

Not only is the conformity of this decision with domestic law doubtful - especially with regard to Article 7 of the Law on Normative Legal Acts of 18 June 1996, which stipulates that a normative legal act regulating the basic rights, freedoms and obligations of citizens and means of their protection and guarantees should be in the form of law. Furthermore, this system appears to be in gross violation of Turkmenistan's international obligations.

Nothing but an on-site investigation will make it possible to determine the practical conditions of these displacements, especially to find out if one is faced with "enforced disappearances" or/and collective deportations, targeting persons on a discriminatory basis, on religious or ethnic grounds.

Similarly, the fate of the displaced persons can be described as an interference with those persons' freedom of movement. It might also qualify as a form of arbitrary detention. An on-site visit of the UN Working Group on Arbitrary Detention would allow an accurate account of the situation. Furthermore, the current completely repressive system was thus put in place just before the 25th November. This coincidence is in itself quite puzzling, even though, at this stage, it is difficult to draw all the conclusions from it.

It remains that the repression that followed the *coup* rapidly took a collective dimension, targeting border populations. As investigations concentrated on Ashgabat, it is even more difficult to know the actual situation, and for example, riots occurred recently at Atamyrat (ex-Kerki), the police forces firing in the crowd. No public information was made available, but President Niyazov stressed the "bad spirit" of people in the region of Lebap, the border region where live the majority of the Uzbek minority, which is suspect to the regime and submitted to a lot of vexation.

On 4 January 2003, the country's law enforcement and military bodies were invited to a meeting of the Council of Ministers on issues related to the attempt of 25 November. According to Turkmen TV,

"discussing strengthening the rule of law and legal order and task of law-enforcement bodies, Saparmyrat Turkmenbasy the Great told the head of these bodies that it was necessary to speed up the implementation of the presidential resolution (of 19 November) on moving and planning manpower and effective use of land in Dasoguz, Lebap and Ahal Regions. Our respected leader talked about one of the articles of the document, which

stipulates that those people who have lost the respect of the nation and who disturb social tranquillity with their bad behaviour must be moved. Saparmyrat Turkmenbasy the great said that Turkmen's ancestors used this humane and effective measure in their time and that this measure helped to rid society of people who have lost respect, and at the same time helped them to clear their sins with hard but good work. The head of State ended his speech by saying that the measure will be carried out according to the laws of Turkmenistan"¹⁰.

Later on, in another public statement, President Niyazov announced that based on the aforementioned *ukase*, five areas had been designated for those guilty of involvement in the 25 November attempt. On 6th January, the President gave effect to his previous threats by deciding to resettle 2.000 "unworthy citizens of Turkmenistan", currently living at the border with Uzbekistan, to the Balkan Region. This part of the country is particularly inhospitable and insalubrious. According to all testimonies, the chances of survival there are very limited.

An urgent investigation is required to determine the criteria and conditions of these forced displacements. It must be recalled that, according to the Convention on the prevention and punishment of the crime of genocide of 9 December 1948, "*deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part*" can qualify as genocide when those acts are "*committed with the intention to destroy, in whole or in part, a national, ethnical, racial or religious group*"¹¹.

A crucial element is to establish whether the use of the words "unworthy people" to refer to the group of persons targeted by those measures is a euphemism for "national minorities".

IV. THE INDIVIDUAL CASES

The Rapporteur endeavoured to record the reliable information provided by International NGOs and official declarations, or indications published in the local press, in particular the "Adalat" newspaper. He had no means either to verify this data on the spot, or to get in touch with the professional lawyers concerned, judges or solicitors.

Within the framework of his mandate, the Rapporteur wishes to clarify three methodological points:

- the inclusion of a person on this list prejudices in no way the position to be taken on the substance of his purported involvement in the 25 November attempt, but concerns the due process of law, from which any accused must benefit.
- the list in itself should not be considered as final, and the absence of a name does not preclude the possibility of violations of the rights of that individual. Information is even more scarce outside the capital, especially in the Lepad region, where the Uzbek minority lives.
- the list deserves to be updated and completed, given the fact that many questions are outstanding in numerous cases relating to fundamental guarantees, the location and length of the detention in custody, contact with family members in the presence of a lawyer, the location and conditions existing in the prison, those convicted detained in solitary confinement, the sanitary situation and potential death, etc.

¹⁰ BBC Monitoring Service, 5 Jan. 2003.

¹¹ Art.IIc. Turkmenistan has not ratified the 1948 Convention as such, but is bound on the basis of state succession by the USSR ratification. Moreover, the rule prohibiting acts of genocide and providing for individual criminal responsibility for authors of such acts is clearly part of customary law.

i. List of the persons condemned.

Unless otherwise provided, all of the following persons have been condemned by the decrees of the Criminal Affairs Council of the Supreme Kaziyet (Court) of Turkmenistan on 15-18 January and Criminal Affairs of the Ashkhabad City Kaziyet on 21 January 2003. These Decrees pronounced the confiscation of the condemned persons' property, who have been declared "betrayers of the Motherland", so as have non nationals.

Torture seems to have been used systematically to extort confessions. There are allegations of use of drugs, in particular on the people who have made a "public confession".

Unless otherwise provided, the date and location of the trial are unknown, as is the name of the lawyer.

AKMAMMEDOV Gurbangeldy Akgayevich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	
AKMURADOV Annageldy Ovezmuradovich	17 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules) Must live in a restricted zone for 5 years	
ANNAGELDIYEV Dzhumamukhammet Durdyevich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules) Must live in a restricted zone for 5 years	
ANNASAKHEDOV Annadurdy	Life imprisonment	Public confession broadcast on December 18, 2002 Director of "Tamponage" Administration of Turkmenburgaz Trust in Shatlyk town (Mary velayat)
ATANESYAN Aram Shavashevich	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	Armenian citizen
BABAEV Arslan Annadurdyevich	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	

BAYRAMOV Karkageldy	20 years' incarceration Date of the sentence : January 19, 2003	Farmer. Relative of the family of Saparmurad Yklimov. He lived outside Ashkhabat in the village Vanovski (Fioruza).
BAYRAMOVA (first name not known)	Sentence : unknown Court and date of Sentence : unknown	Karkageldy Bayramov's wife.
BEGMEDOV Segdar	9 years of imprisonment on possibly politically motivated charge of illegal possession of narcotics Court and date of Sentence: Kopbetdag District Court in Ashkhabat on 24 December 2002	
BERDIYEV Batyr Atayievich	25 years' incarceration, the court ruled that Mr Berdiyev should serve 5 out of 25 years in the high-security prison of Turkmenbashi and 20 years in a reform institution restricted rules. Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Public confession broadcast on 18 December 2002 Born in 1960 Former Ambassador to OSCE in Vienna Former Head of the Foreign Ministry (2000-2001)
BERDIYEV Orazmukhammet Mukhyievich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Former high-rank officer of the National Security Committee
BURIYEV Aman Dzhumadurdiyevich	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years	
BURIYEV Esen Dzhumadurdiyevich	15 years' incarceration (3 years in a prison and 12 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	
DOVLETOV Rovshen Dzhorageldiyevich	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	
DURDYIEV Vekil Atayevich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Former officer of the National Security Committee. Retired in 2001
DURDYKLYCHEV	25 years' incarceration (5 years in a prison and	

Dzhumageldy Allaberdiyevich	20 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years	
DZHUMAEV (Jumaev) Chary Rozyevich	18 years' incarceration (5 years in a prison and 13 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Guwanch Dzhumaev's brother
DZHUMAEV (Jumaev) Guwanch	Life imprisonment	Public confession broadcast on 4 and 29 December, 2002 Dual citizenship : Turkmen/ Russian Former head of corporation "Gayrat"
DZHUMAEV (Jumaev) Rozy	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	Public confession broadcast on 4 December 2002 Guwanch Dzhumaev's seventy years old father. Difficult heart Condition
DZHUMAEV (Jumaev) Rustem Byashimovich	18 years' incarceration (3 years in a prison and 15 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Former administrative officer in the Ministry of Foreign Affairs, not related to Guwanch Dzhumaev's family
DZHUMAEV (Jumaev) Timur Guwancheyevich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Public confession broadcast on December 4, 2002 Guwanch Dzhumaev's son
GAYIBOV Dovlet Odayevich	20 years' incarceration (5 years in a prison and 15 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Public confession broadcast on December 18, 2002 Chairman of the oil-base of

		Saparmurat Niyazov Etrap (Lebap velayat). Resident of Amudarya town.
GARAYEV Atamurat Nurmuradovich	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	
GARATAYEV Guvandyk Isayevich	20 years' incarceration (5 years in a prison and 15 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	
GARATAYEV Isa Bektayevich	15 years' incarceration (3 years in a prison and 12 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Guvandyk Garatayev's father
GARATAYEV Murat Amanovich	20 years' incarceration (5 years in a prison and 15 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	
GUNDOGDIYEV Yazgeldy Potaievich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Public confession Broadcast on December 18, 2002 Former Head of the Dashoguz Regional Administration
GURBANOV Bazar	16 years' incarceration (3 years in a prison and 12 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	
ILAMANOV Soltan Ereshevich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	
KABULOV Akmurad	8 years' incarceration in a reform institution under restricted rules. Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Former Head of the Turkmen Border Guards. Sixty years old
KARATAYEV Guvandyk	20 years' incarceration Court and date of the trial : unknown	Born in 1976. From the village of Ovezov
KHAIDOV Yusup	5 years' incarceration in a reform institution under restricted rules.	
KHALLIYEV Tagandurdy	20 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules).	Public confession broadcast on December 18,

	<p>Denied any official positions for 3 years. Must live in a restricted zone for 5 years.</p> <p>Deprived of his scientific titles and degrees on December 18, 2002</p>	<p>2002</p> <p>Former Chairman of the Mejlis (Parliament), still a member of the Mejlis in November 2002.</p> <p>No indication about a vote on his immunity.</p>
KHATAMOV Amangeldy Akhmetovich	<p>25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.</p>	<p>Junior brother of Annamurad Khatamov</p>
KHATAMOV Annamurad Akhmetovich	<p>25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.</p>	<p>Public confession broadcast on December 18, 2002</p> <p>Senior engineer of the "Turkmen-suwdesga" (Turkmen Water Facilities)</p> <p>Close friend of Guwanch Dzhumaev</p>
KHATAMOV Paltakgul Achilovich	<p>20 years' incarceration (5 years in a prison and 15 years in a reform institution under restricted rules). Deprived of official positions for 3 years. Must live in a restricted zone for 5 years.</p>	
KHEMRAYEV Nepes	<p>20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.</p>	<p>Relative of Guwanch Dzhumaev. From Lebap Velayat.</p>
KHODZHAMURADOV Annamurat	<p>5 years' incarceration in a reform institution under restricted rules.</p>	
KHUMMAYEV (Hommaev) Suleiman Bairamovich	<p>25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.</p>	
LYASKIN Yuri Gennadievich	<p>25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.</p>	<p>Probably a Russian citizen</p>
MOVLYAMOV Mukhammetberdy Yagmurovich	<p>12 years' incarceration in a reform institution under restricted rules. Deprived of official positions for 3 years.</p>	

	Must live in a restricted zone for 5 years.	
MUKHAMMEDOV Saparmurat Dzhumageldiyevich	18 years' incarceration (3 years in a prison and 15 years in a reform institution under restricted rules). Deprived of official positions for 3 years. Must live in a restricted zone for 5 years.	
NAZARGULYIEV Dovletkuly Mamedovich	12 years' incarceration in a reform institution under restricted rules. Deprived of official positions for 3 years. Must live in a restricted zone for 5 years.	
NOVOZHILOV Vladislav Stanislavovich	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	Probably a Russian citizen
NURGELDYIEV Rezhepgeldy	22 years' incarceration (5 years in a prison and 17 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Chairman of the Shatlyk Administration "Tamponage"

ORAZGELDIYEV Nurmukhammet	Life imprisonment	Public confession broadcast on December 18, 2002 Former officer of the National Security Committee
PAVLINOV Alexander Konstantinovich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	Foreign citizenship : probably a Russian citizen
RAKHIMOV Serdar Seitmuradovich	25 years' incarceration (5 years in a prison and 20 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Public confession broadcast on December 18, 2002 Former Head of the State Television of Turkmenistan
REYIMOV Dzhora Bekhremovich	20 years' incarceration (3 years in a prison and 17 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	
SAFAROV Khonsait Sagatovich	20 years' incarceration (5 years in a prison and 15 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	Public confession broadcast on December 18, 2002 Born in 1976 Uzbek citizen Resident of Talimarzhen town in Uzbekistan. Allegedly kidnapped by security agents in Uzbekistan and forcibly brought to Turkmenistan
SEYIDOV Saparmurat	6 years' incarceration in a reform institution under restricted rules. Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Fomer Head of the National Security Committee (KNB) of Turkmenistan. Sixty years old
SERCHAYEV Ashir	5 years' incarceration in a reform institution under restricted rules.	
SHAGALOV	25 years' incarceration (5 years in a prison and	

Vepa Gurbandurdyevich	20 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	
SHIKHMURADOV Boris	Life imprisonment. Court and date of the trial : The Supreme Court on 29 December 2002. Lawyer : Viktoria Bagdasaryan	Public confession broadcast on 29 December 2002 Dual citizenship : Turkmen/ Russian. Arrested on December 25, 2002 according to official sources. 1992-2001 : Deputy Foreign Minister, and then Foreign Minister. Special Representative of Turkmenistan on Afghanistan and the Caspian Sea. Appointed Ambassador to China. Defected in November 2001. Since then Mr Shikhmuradov lived outside Turkmenistan.
SHIKHMURADOV Konstantin Orazovich	17 years' incarceration (5 years in a prison and 12 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	Dual citizenship : Turkmen/ Russian Arrested on December 7, 2002. Born in 1951. Boris Shikhmuradov's youngest brother.
TASHLIYEVA Edzhegul Akgayevna	5 years ordeal term	
YAZMURADOV Ovezmurat	19 years' incarceration (3 years in a prison and 16 years in a reform institution under restricted rules). Must live in a restricted zone for 5 years.	
YKLIMOV	20 years' incarceration (5 years in a prison and	Public confession

Amanmukhammet	15 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	on 4 December 2002 Born in 1948. Saparmurad Ykmimov's brother. Serious health problems
YKLIMOV Orazmammet	19 years' incarceration (5 years in a prison and 14 years in a reform institution under restricted rules). Denied any official positions for 3 years. Must live in a restricted zone for 5 years.	
YKLIMOV Yklim Bagshievich	Life imprisonment	Public confession on December 29, 2002 Born in August 1, 1955. Former Minister of Justice. Saparmurad Yklimov's brother.

ii. List of persons who have been arrested without judgement (arbitrary arrest)

1) AKOPYAN Rita

Boris Shikhmuradov's second cousin.

Detained for 3 days since 21 December 2002

2) AKOPYAN Zurab

Rita Akopyan's husband.

Detained for 3 days since 21 December 2002.

3) ANNANAPESOV Oraz

Pharmacist.

Arrested on 9 or 10 December 2002 in Göktepe (Akhal Velayat) for criticising the President of Turkmenistan. His pharmacy has been sealed.

No new information.

3) ANNANIYAZOV Charygeldy

Born in 1962. Brother of exiled dissident Gulgeldi Annaniyazov.

Mr Annaniyazov surrendered to the the police on 14 December 2002, after security services had practically taken his sister Enabay in hostage.

Released but arrested again after his brother Gulgeldi gave an interview to Radio Free Europe broadcasted on 28 December 2002.

Charged with a criminal offence.

4) ANNANIYAZOV Davlatgeldy

Born in 1966. Brother of exiled dissident Gulgeldi Annaniyazov.

Arrested on 30 November 2002.

Released but arrested again after his brother Gulgeldi gave an interview to Radio Free Europe broadcasted on 28 December 2002.

Allegations of torture.

Charged with a criminal offence.

5) ANNANIYAZOV Enabay

Born in 1957. Sister of exiled dissident Gulgeldi Annaniyazov.

Arrested on 01 December 2002.

Released and arrested again on 13 December. Released the following day after her brother Charygeldy surrendered to the the police.

6) ANNAYEVA Hurma

Arrest : date unknown

May still be in custody

7) ATAYEV Serdar

Cell mate of Gulgeldi Annaniyazov in the prison of Turkmenbashi two years ago.

Arrest : date unknown.

May still be in custody.

8) AYDOGDYEV (first name not known)

First secretary of the Central Committee (CK) of the Youth Union (Molodyzhny Soyus) after the independence of Turkmenistan.

Arrest : date unknown.

May still be in custody.

9) BABAEVA Guncha

Detained from November 25 to November 27, 2002.

Allegations of torture.

Passport confiscated.

10) BABAEVA Lachin

Detained from November 25 to November 27, 2002.

Allegations of torture.

Passport confiscated

11) BEKNAZAROV Amandurdy

Born in 1939. Father of Begench Beknazarov.

Arrested on 17 December 2002. He spent 20 days in pre-trial detention (SIZO) without formal charges.

Allegations of torture.

12) BEKNAZAROV Begench

Born in 1969. Major in the Turkmen Military Forces Army.

Disappeared after the events of 25 November 2002.

Declared “wanted” by the authorities.

Probably arrested.

13) BEKNAZAROVA Djerem

Born in 1982. Sister of Begench Beknazarov.

Arrested on December 17, 2002. She spent 20 days in pre-trial detention (SIZO) without formal charges.

Allegations of torture.

14) BEKNAZAROVA Raisa

Born in 1947. Mother of Begench Beknazarov.

Arrested on December 17, 2002. She spent 20 days in pre-trial detention (SIZO) without formal charges.

Allegations of torture.

15) BERDIYEVA Dzhenet

Born in 1967. Younger sister of Batyr Berdiyev and Esenaman Yklimov's wife.

Detained by the police in Ashkhabat with her two minor children (names not known) between 8:30 pm on November 25 and 2 pm on November 26, 2002.

Arrested on December 8, 2002. Mrs Berdiyeva was released on December 10.

Allegations of torture.

Confiscation of property (apartment, shop).

16) DEMIR UGLI Abas

Date of arrest : unknown

May still be in custody.

17) DZHUMAEV (Jumaev) Serdar

Rustem Dzhumaev's son.

Date of arrest : unknown

Allegedly tortured and died in the pre-trial detention facilities of the Ministry of National Security in Ashkhabat.

18) GARABAYEV (or Karabayev) Kuvandyk

A relative of Guwanch Dzhumaev. Resident of Lebap Velayat.

Date of arrest : unknown

May still be in custody.

19) KAKAYEVA Gozel

Born in June 5, 1950. Wife of Amanmukhammet Yklimov.

Date of arrest : 25 or 26 November, 2002.

May still be in custody.

20) MURODOV Kakhramon

Resident of Dashoguz Velayat.

Date of arrest: unknown

May still be in custody.

21) NAZAROV Kakamurat

Born in 1965.

Date of arrest: unknown

May still be in custody.

22) NIYAZDURDYEV Davlet

Nephew of Saparmurad Yklimov. Son of Kyakilik Niyazduryeva.

Arrested by the the police in Ashkhabat between 20.30hrs on November 25 and 14.00hrs on 26 November 2002.

Released (date unknown).

Allegations of torture.

23) NIYAZDURDYEVA Kyakilik

Born in September 26, 1957. Saprmurad Yklimov's sister.

Detained by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Released.

24) ODEKOV Rakhman

Former Hakim of Mary Velayat. Retired in 15 November 2002.

Date of arrest : the days following 25 November 2002.

May still be in custody.

25) ODZHAROV (first name not known)

Former Deputy Head of the National Security Committee (KNB) and former head of the KNB in Balakan Velayat.

Date of arrest : 14 December 2002.

May still be in custody.

26) PROKOFYEVA Olga

Friend of Yklim Yklimov. 27 years old.

Date of arrest : unknown

May still be in custody

Allegations of torture

27) PROKOFYEVA Svetlana

Aunt of Olga Prokofyeva

Date of arrest: unknown

May still be in custody

28) PROKOFYEVA (first name not known)

Mother of Olga Prokofyeva.

Date of arrest: unknown

May still be in custody

Allegations of torture

29) PROKOFYEVA (first name not known)

Sister of Olga Prokofyeva.

Date of arrest: unknown

May still be in custody

Allegations of torture

30) RAFIKOV Rustem

From Dashoguz Velayat

Date of arrest: unknown

May still be in custody.

31) TUKHBATULLIN Farid

Resident of Dashoguz velayat.

Head of the Ecological Club of Dashoguz.

Arrested on 23 December 2002. Held incommunicado for three days.

Charged with criminal offences on political grounds.

Pre-trial investigation closed.

32) USKOVA Lyudmilia

Born in 1946. Mother-in-law of Saparmurad Yklimov's brother Parakhat.

Detained by the police in Ashkhabat between 20.30 hrs on 25 November and 14.00 hrs on 26 November 2002.

Released.

33) YKLIMOV Aili

Born in 1982. Orazmukhammet Yklimov's youngest son. Student of second course of Moscow University's Law Faculty.

Not married.

Dual citizenship : Turkmen/Russian

Date of arrest : 25 November 2002.

Released (date not known).

Allegations of severe torture. Deprived of medical assistance.

Confiscation of passport.

34) YKLIMOV Ata

Born in 1930. Youngest brother of Saparmurad Yklimov's father.

Arrested with his wife and seven of their children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Allegations of torture. Poor medical situation.

Released with his wife and the seven children (date unknown).

35) YKLIMOV Chary

Brother of Saparmurad Yklimov's father. He lives outside Ashkhabat with his family.

Arrested with his wife and their three children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Allegations of torture.

No new information about the family.

36) YKLIMOV Davlet

Born in June 5, 1972. Son of Amanmukhammet Yklimov.

Arrested with his wife and their four children (names not known) by the police in Ashkhabat between 20.00hrs on 25 November and 14.00hrs on 26 November 2002.

Allegations of torture.

No new information about the family.

37) YKLIMOV Davlet

Born in 1980. Nephew of Saparmurad Yklimov. Son of Kyakilik Niyazduryeva.

Date of arrest : 25 or 26 November 2002.

Allegations of torture.

May still be in custody.

38) YKLIMOV Esenaman

Born in 1969. Businessman. Son of Orazmukhammet Yklimov. Married to Dzhenet Berdiyeva.

Arrested on 25 November 2002.

Released a few days after.

Allegations of torture. No medical assistance.

Deprived of the right to leave Ashkhabat.

Confiscation of property.

39) YKLIMOV Guwanch

Son of Ata Yklimov.

Arrested with his wife and their two children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Allegations of torture.

No new information about the family.

40) YKLIMOV Kadyr

Born in 1972. Brother of Mukhamedniyaz Yklimov and son of Aknabat Yklimova.

Arrested with his wife and their three children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00 hrs on 26 November 2002.
Allegations of torture.

No new information about the family.

41) YKLIMOV Kemal

Born in 1957. Son of Ata Yklimov.

Arrested with his wife and their five children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Allegations of torture.

The whole family is supposed to have been released at the end of January 2003.

42) YKLIMOV Mukhamedniyaz

Born in June 26, 1970. Saparmurad Yklimov's cousin.

Arrested on 25 or 26 November 2002.

Allegations of torture.

May still be in custody.

43) YKLIMOV Mukhammet

Born in June 26, 1970. Lives in Anau with his family.

Detained with his wife and three children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Allegations of torture.

No new information about the family.

44) YKLIMOV Rasul

Born in 1980. Orazmammet Yklimov's son from first marriage.

Russian citizen, resident of Glinka district in Smolensk region (Russian Federation).

Date of arrest : unknown

Released on 14 December 2002.

Allegations of torture.

Passport confiscated.

45) YKLIMOVA (first name not known)

Wife of Amanmukhammet Yklimov.

Arrested with her husband and four children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Released with the children (date unknown).

Confiscation of the house at the end of the month of November 2002.

46) YKLIMOVA (first name not known)

Wife of Orazmammet Yklimov.

Detained with Orazmammet Yklimov's four children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

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47) YKLIMOVA Aknabat

Wife of Saparmurad Yklimov's uncle.

Detained with three children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information about the family.

48) YKLIMOVA Bakhar

Sister of Saparmurad Yklimov.

Detained with three children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information about the family.

49) YKLIMOVA Dunya

Sister of Saparmurad Yklimov. She is an epileptic.

Detained with two children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information about the family.

50) YKLIMOVA Guldzhan

Daughter of Ata Yklimov. Lives in Mary.

Detained with her husband and six children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information about the family.

51) YKLIMOVA Khaltach

Daughter of Aknabat Yklimova. Lives in Anau.

Detained by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information.

52) YKLIMOVA Khumay

Daughter of Orazmammet Yklimov.

Detained with her husband and two children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information about the family.

53) YKLIMOVA Kyabi

Daughter of Chary Yklimov.

Detained with her husband and three children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information about the family.

54) YKLIMOVA Maral

Daughter of Saparmurad Yklimov. Sheraton Hotel Manager.

Detained by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Released (date unknown).

55) YKLIMOVA Mekhri

Daughter of Orazmammet.

Detained with her husband and two children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

No new information about the family.

56) YKLIMOVA Nyazik

Born in July 20, 1973. Daughter of Amanmukhammet Yklimov.

Detained with her husband and two children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.

Released (date unknown).

Confiscation of property.

57) YKLIMOVA Shirin
Daughter of Ata Yklimov.
Detained by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.
No new information.

58) YKLIMOVA Tavus
Daughter of Orazmammed Yklimov.
Detained with her husband and two children (names not known) by the police in Ashkhabat between 20.30hrs on 25 November and 14.00hrs on 26 November 2002.
No new information about the family.

3. List of persons condemned in absentia

1) KHANAMOV Nurmukhammet
Former Turkmen Ambassador to Turkey.
Tried and convicted *in absentia* on 30 December 2002.
Sentence: life imprisonment

2) ORAZOV Khudayberdy
Former Head of the Central Bank of Turkmenistan.
Tried and convicted *in absentia* on 30 December 2002.
Sentence: life imprisonment

3) YKLIMOV Orazmukhammet
Freelance journalist.
Charged with illegal weapons trading and other criminal violations in connection with the event of 25 November 2002.
Applying for asylum in a European country.

4) YKLIMOV Saparmurat
Currently living in Sweden.
Charged with criminal offences in connection with the event of 25 November 2002.

iv. List of foreigners:

The number and nationality of non-nationals that have been arrested in relation to the 25 November assassination attempt is uncertain.

In general, Turkmen authorities' declarations on this issue are vague if not contradictory. On 26 November 2002, the chief of the international information department of the Turkmen presidential secretariat, Surdar Durdiev, announced that "four ethnic Georgians who are not Turkmen citizens (...) have been detained in Ashgabat on suspicion of involvement in the assassination attempt" on President Niyazov. On 12 January 2003, President Niyazov announced that 16 foreign citizens had been arrested. On 20 January 2002, the semi-official news website: *www.turkmenistan.ru* announced "Law enforcement bodies of Turkmenistan will complete the procedure of preparation for handing over six Turkish citizens of Turkey, who were accused of assassination on the President Saparmurat Niyazov and *coup d'état* attempt". No new information on this issue is available.

The following non-nationals are accused by the authorities of participating in the attempted *coup*. Their names appear in the various reports broadcast by the General Prosecutor. Here they are enumerated by nationality.

Subject to on the spot verification, only the Armenian and Uzbek National have been judged.

One American citizen:

KOMAROVSKY Leonid,

Businessman. He is a diabetic.

Arrested on November 26, 2002.

Public confession broadcast on 18 December 2002.

The US Embassy granted access access to him on 17 February 2003.

One Armenian citizen:

ATANESYAN Aram Shavashovich (see list of sentenced persons)

Three Russian citizens:

BISHOYEV Amirbek

NURALIYEV Magambet

SADULAYEV Ruslan

The public confession of one of these Russian citizens has been broadcasted on 4 December 2002.

Six Turkish citizens:

BOLER Mustafa Mesut

CHELIK Ekrem

CHELIK Shadi

NEJAP Bayram

YILMAZ Mehmet Ikhsan

YOKUSH Omur

The public confession of one of these Turkish citizens has been broadcast on 4 December 2002.

One Uzbek citizen:

SAFAROV Khonsait Sagatovich (see list of sentenced persons)

Public confession broadcast on 18 December 2002.

ANNEXES

1. Moscow Mechanism

- 1.1 Document of the Moscow Meeting. 1991
- 1.2 Concluding Document of Helsinki. 1992

2. Related Correspondance

- 2.1 Letter from 10 Participating States to ODIHR Acting Director
- 2.2 Letter from the Acting Director of the ODIHR to President Niyazov
- 2.3 Unofficial translation of the letter from the Ministry of Foreign Affairs of Turkmenistan addressed to the Office of the Chairman of the OSCE Permanent Council

3. Constitution of Turkmenistan

4. Public report of the General Prosecutor about the investigation on the event of 25 November 2002

- 4.1 General Prosecutor's TV-broadcast report (4 December 2002).
- 4.2 General Prosecutor's TV-broadcast report (19 December 2002).
- 4.3 General Prosecutor's TV-broadcast report (29 December 2002).

1.MOSCOW MECHANISM

1.1: MOSCOW DOCUMENT 1991 (Par. 1 to 16) as amended by ROME 1993 (Chapter IV, par. 5)

In order to strengthen and expand the human dimension mechanism described in the section on the human dimension of the CSCE in the Concluding Document of the Vienna Meeting and to build upon and deepen the commitments set forth in the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, the participating States adopt the following:

(1) The participating States emphasise that the human dimension mechanism described in paragraphs 1 to 4 of the section on the human dimension of the CSCE in the Vienna Concluding Document constitutes an essential achievement of the CSCE process, having demonstrated its value as a method of furthering respect for human rights, fundamental freedoms, democracy and the rule of law through dialogue and co-operation and assisting in the resolution of specific relevant questions. In order to improve further the implementation of the CSCE commitments in the human dimension, they decide to enhance the effectiveness of this mechanism and to strengthen and expand it as outlined in the following paragraphs.

(2) The participating States amend paragraphs 42.1 and 42.2 of the Document of the Copenhagen Meeting to the effect that they will provide in the shortest possible time, but no later than ten days, a written response to requests for information and to representations made to them in writing by other participating States under paragraph 1 of the human dimension mechanism. Bilateral meetings, as referred to in paragraph 2 of the human dimension mechanism, will take place as soon as possible, and as a rule within one week of the date of the request.

(3) A resource list comprising up to six experts appointed by each participating State will be established without delay at the CSCE Institution. The experts will be eminent persons, including where possible experts with experience related to national minority issues,

preferably experienced in the field of the human dimension, from whom an impartial performance of their functions may be expected.

The experts will be appointed for a period of three to six years at the discretion of the appointing State, no expert serving more than two consecutive terms. Within four weeks after notification by the CSCE Institution of the appointment, any participating State may make reservations regarding no more than two experts to be appointed by another participating State. In such case, the appointing State may, within four weeks of being notified of such reservations, reconsider its decision and appoint another expert or experts; if it confirms the appointment originally intended, the expert concerned cannot take part in any procedure with respect to the State having made the reservation without the latter's express consent.

The resource list will become operational as soon as 45 experts have been appointed.

(4) A participating State may invite the assistance of a CSCE mission, consisting of up to three experts, to address or contribute to the resolution of questions in its territory relating to the human dimension of the CSCE. In such case, the State will select the person or persons concerned from the resource list. The mission of experts will not include the participating State's own nationals or residents or any of the persons it appointed to the resource list or more than one national or resident of any particular State.

The inviting State will inform without delay the CSCE Institution when a mission of experts is established, which in turn will notify all participating States. The CSCE institutions will also, whenever necessary, provide appropriate support to such a mission.

(5) The purpose of a mission of experts is to facilitate resolution of a particular question or problem relating to the human dimension of the CSCE. Such mission may gather the information necessary for carrying out its tasks and, as appropriate, use its good offices and mediation services to promote dialogue and co-operation among interested parties. The State concerned will agree with the mission on the precise terms of reference and may thus assign any further functions to the mission of experts, *inter alia*, fact-finding and advisory services, in order to suggest ways and means of facilitating the observance of CSCE commitments.

(6) The inviting State will co-operate fully with the mission of experts and facilitate its work. It will grant the mission all the facilities necessary for the independent exercise of its functions. It will, *inter alia*, allow the mission, for the purpose of carrying out its tasks, to enter its territory without delay, to hold discussions and to travel freely therein, to meet freely with officials, non-governmental organizations and any group or person from whom it wishes to receive information. The mission may also receive information in confidence from any individual, group or organization on questions it is addressing. The members of such missions will respect the confidential nature of their task.

The participating States will refrain from any action against persons, organizations or institutions on account of their contact with the mission of experts or of any publicly available information transmitted to it. The inviting State will comply with any request from a mission of experts to be accompanied by officials of that State if the mission considers this to be necessary to facilitate its work or guarantee its safety.

(7) The mission of experts will submit its observations to the inviting State as soon as possible, preferably within three weeks after the mission has been established. The inviting State will transmit the observations of the mission, together with a description of any action it has taken or intends to take upon it, to the other participating States via the CSCE Institution no later than two weeks after the submission of the observations.

These observations and any comments by the inviting State may be discussed by the Committee of Senior Officials, which may consider any possible follow-up action. The observations and comments will remain confidential until brought to the attention of the Senior Officials. Before the circulation of the observations and any comments, no other mission of experts may be appointed for the same issue.

(8) Furthermore, one or more participating States, having put into effect paragraphs 1 or 2 of the human dimension mechanism, may request that the CSCE Institution inquire of another participating State whether it would agree to invite a mission of experts to address a particular, clearly defined question on its territory relating to the human dimension of the CSCE. If the other participating State agrees to invite a mission of experts for the purpose indicated, the procedure set forth in paragraphs 4 to 7 will apply.

(9) If a participating State (a) has directed an enquiry under paragraph 8 to another participating State and that State has not established a mission of experts within a period of ten days after the enquiry has been made, or (b) judges that the issue in question has not been resolved as a result of a mission of experts, it may, with the support of at least five other participating States, initiate the establishment of a mission of up to three CSCE rapporteurs. Such a decision will be addressed to the CSCE Institution, which will notify without delay the State concerned as well as all the other participating States.

(10) The requesting State or States may appoint one person from the resource list to serve as a CSCE rapporteur. The requested State may, if it so chooses, appoint a further rapporteur from the resource list within six days after notification by the CSCE Institution of the appointment of the rapporteur. In such case the two designated rapporteurs, who will not be nationals or residents of, or persons appointed to the resource list by any of the States concerned, will by common agreement and without delay appoint a third rapporteur from the resource list. In case they fail to reach agreement within eight days, a third rapporteur who will not be a national or resident of, or a person appointed to the resource list by any of the States concerned, will be appointed from the resource list by the ranking official of the CSCE body designated by the Council. The provisions of the second part of paragraph 4 and the whole of paragraph 6 also apply to a mission of rapporteurs.

(11) The CSCE rapporteur(s) will establish the facts, report on them and may give advice on possible solutions to the question raised. The report of the rapporteur(s), containing observations of facts, proposals or advice, will be submitted to the participating State or States concerned and, unless all the States concerned agree otherwise, to the CSCE Institution no later than two weeks after the last rapporteur has been appointed. The requested State will submit any observations on the report to the CSCE Institution, unless all the States concerned agree otherwise, no later than two weeks after the submission of the report.

The CSCE Institution will transmit the report, as well as any observations by the requested State or any other participating State, to all participating States without delay. The report will be placed on the agenda of the next regular meeting of the Committee of Senior Officials or of the Permanent Committee of the CSCE, which may decide on any possible follow-up action. The report will remain confidential until after that meeting of the Committee. Before the circulation of the report no other rapporteur may be appointed for the same issue.

(12) If a participating State considers that a particularly serious threat to the fulfilment of the provisions of the CSCE human dimension has arisen in another participating State, it may, with the support of at least nine other participating States, engage the procedure set forth in paragraph 10. The provisions of paragraph 11 will apply.

(13) Upon the request of any participating State the Committee of Senior Officials or the Permanent Committee of the CSCE may decide to establish a mission of experts or of CSCE rapporteurs. In such case the Committee will also determine whether to apply the appropriate provisions of the preceding paragraphs.

(14) The participating State or States that have requested the establishment of a mission of experts or rapporteurs will cover the expenses of that mission. In case of the appointment of experts or rapporteurs pursuant to a decision of the Committee of Senior Officials or of the Permanent Committee of the CSCE, the expenses will be covered by the participating States in accordance with the usual scale of distribution of expenses. These procedures will be reviewed by the Helsinki Follow-up Meeting of the CSCE.

(15) Nothing in the foregoing will in any way affect the right of participating States to raise within the CSCE process any issue relating to the implementation of any CSCE commitment, including any commitment relating to the human dimension of the CSCE.

(16) In considering whether to invoke the procedures in paragraphs 9 and 10 or 12 regarding the case of an individual, participating States should pay due regard to whether that individual's case is already sub judice in an international judicial procedure. Any reference to the Committee of Senior Officials in this document is subject to the decision of that Committee and the Council.

1.2 Concluding Document of Helsinki 1992 (Decisions, chapter VI, par. 7)

(7) In order to align the Human Dimension Mechanism with present CSCE structures and institutions the participating States decide that:

Any participating State which deems it necessary may provide information on situations and cases which have been the subject of requests under paragraphs 1 or 2 of the chapter entitled the "Human Dimension of the CSCE" of the Vienna Concluding Document or on the results of those procedures, to the participating States through the ODIHR - which can equally serve as a venue for bilateral meetings under paragraph 2 - or diplomatic channels. Such information may be discussed at Meetings of the CSO, at implementation meetings on Human Dimension issues and review conferences.

2. RELATED CORRESPONDANCE

2.1: Letter from 10 Participating States to ODIHR Acting Director (Vienna, 15 January 2003)

Mr Steven Wagenseil
Acting Director
ODIHR
19 Ujazdowskie Aleje
00-557 Warsaw

Dear Mr Wagenseil

In our letter of 20 December to Ambassador Vladimir Kadyrov, Head of the Delegation of Turkmenistan to the OSCE, we the undersigned participating States of the OSCE invoked Paragraph 12 of the 1991 Moscow Document, in order to establish a fact-finding mission to Turkmenistan to examine concerns arising out of investigations resulting from the reported attack on 25 November on President Niyazov. We expect the mission to investigate all matters relating to the conduct of the investigations, including allegations of

torture, and resulting developments, which may constitute a particularly serious threat to the fulfilment by Turkmenistan of its OSCE commitments in the human dimension.

In accordance with the procedure laid down in paragraphs 9 and 10 of the Moscow Document, we are pleased to confirm that we have appointed Professor Emmanuel Decaux of France from the resource list of experts (circulated on 20 December under ODIHR.GAL/68/02) to serve as a rapporteur on the fact-finding mission.

We look forward to working with ODIHR and the Government of Turkmenistan in the coming days on the establishment of the mission, in accordance with the timelines and co-operative procedures foreseen in the Moscow Document, in particular Paragraph 6.

- Dieter Boden, Ambassador Permanent Mission of Germany to the OSCE
- Douglas Davidson, Chargé d’Affaires a.i United States Mission to the OSCE
- Margit Waestfelt, Ambassador Permanent Mission of Austria to the OSCE
- Evelyn Puxley, Ambassador Delegation of Canada to the OSCE
- John de Fonblanque, Ambassador United Kingdom Delegation to the OSCE
- Aristidis Sandis, Ambassador Permanent Mission of Greece to the OSCE
- Robin Henry, Chargé d’Affaires a.i Permanent Mission of Ireland to the OSCE
- Guido Lenzi, Ambassador Permanent Mission of Italy to the OSCE
- Mette Kongshem, Ambassador Permanent Delegation of Norway to the OSCE
- Ann Marie Bolin Pennegard, Chargé d’Affaires a.i Permanent Delegation of Sweden to the OSCE

cc: Ambassador Vladimir Kadyrov, Head of the Delegation of Turkmenistan to the OSCE

2.2: Letter from the Acting Director of the ODIHR to President Niyazov (Warsaw, 16 January 2003)

H.E. Saparmurat Niyazov
President of Turkmenistan
Ashgabat

Dear Mr President,

I write to you concerning the OSCE Moscow Mechanism, which as you know was invoked on 20 December 2002 by ten OSCE participating States -- Germany, United States, Austria, Canada, United Kingdom, Greece, Ireland, Italy, Norway, Sweden (hereafter “requesting States”) – in relation to Turkmenistan. In accordance with Paragraph 12 of the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (attached), the Delegation of Turkmenistan to the OSCE was notified by the requesting States about their intention to establish a fact-finding mission of rapporteurs to examine the circumstances surrounding the 25 November 2002 attack in Ashgabat and the resulting investigation.

The Office for Democratic institution and Human Rights (the ODIHR) is designated, by decision of the 1992 Prague meeting of the OSCE Ministerial Council, as the institution charged with the tasks in connection with expert and rapporteur missions according to the Moscow Mechanism. I therefore have the honour to inform you that the requesting States have appointed Mr. Emmanuel Decaux (France) as the rapporteur. As outlined in Paragraph 10 of the Moscow Mechanism, Turkmenistan, as the requested State, may, if it so chooses, appoint a second rapporteur from the resource list of experts within six days after this notification by the ODIHR. We would like to remind you that a rapporteur can not be a national or resident of, nor a person appointed to the resource list by, any of the States concerned, i.e. the requesting States and the requested State. I attach a copy of the current list of experts to facilitate your decision.

In accordance with the above, the ODIHR would expect to receive an answer from the Government of Turkmenistan on this issue before the end of 22 January 2003. Absence of an answer by that date will be considered as the rejection of the possibility to appoint a second rapporteur. Please note that if Turkmenistan decides to appoint a rapporteur, that person and Mr. Decaux will together have the responsibility of choosing a third rapporteur within eight days. In addition, whether or not Turkmenistan takes advantage of this possibility, the rapporteur(s) will be charged with preparing a report and recommendations on the issues cited in the letter of 20 December 2002. We therefore anticipate that a visit to Turkmenistan will take place within the month of February to facilitate preparation of that report and recommendations.

The ODIHR, as the OSCE Institution charged with providing support to the Moscow Mechanism, looks forward to continued co-operation in this regard with the authorities of the Government of Turkmenistan, who should feel free to contact our Office directly at any time.

Sincerely yours,

/s/

Steven Wagenseil

Acting Director

- Cc: Amb. Vladimir Kadyrov, Head of the Delegation of Turkmenistan to the OSCE
- H.E. Rashit Meredov, Minister of Foreign Affairs of Turkmenistan, Ashgabad
 - Amb. P. Badescu, Head of the OSCE Office in Ashgabad
 - Amb. Justus de Visser, Chair of the OSCE Permanent Council, Vienna
 - Amb. Daan Everts, Head of the OSCE Task Force, Netherlands Ministry of Foreign Affairs
 - Amb. Francisco Seixas da Costa, Head of Permanent Delegation of Portugal to the OSCE
 - Amb. Ivan Naydenov, Head of Permanent Mission of the Republic of Bulgaria to the OSCE

The following documents are attached to this letter:

1. Unofficial translation of this letter into Russian
2. Moscow Mechanism (Moscow 1991 (Par. 1 to 16) as amended by Rome 1993 (Chapter IV, par. 5)) – in English and Russian
3. List of Experts appointed by OSCE participating States (as of 15 January 2003)
4. Letter from the requesting participating States about the appointment of the first rapporteur

2.3: Unofficial translation of the letter from the Ministry of Foreign Affairs of Turkmenistan addressed to the Office of the Chairman of the OSCE Permanent Council

Ashgabad, 31 January 2003

Ministry of Foreign Affairs of Turkmenistan presents its compliments to the Office of the Chairman of the OSCE Permanent Council and has an honour to present the following information.

The Ministry of Foreign Affairs (MFA) received a letter from the Acting Director of the OSCE/ODIHR on 27 January 2003.

In response to that letter the MFA would like to note that on 22 January 2003 a delegation of Turkmenistan headed by the Minister of Foreign Affairs met with the Ambassadors of the US, Germany, Austria, Canada, United Kingdom, Greece, Ireland, Italy, Norway, Sweden, where the Turkmen delegation presented detailed facts and materials of criminal investigation about the terrorist act, the aim of which was to seize power with violent means and to change a constitutional order of the country by attempting to assassinate the President of Turkmenistan on 25 November 2002 in Ashgabad.

In the presentation of the Minister of Foreign Affairs it was stated that investigation of this criminal case was conducted in strict accordance with the law, and with norms of international law. The degree of guilt for every participant of this serious crime was identified on the basis of the detailed examination of the facts, material evidences and circumstances surrounding it.

During the course of investigation the Turkmen side repeatedly announced its readiness to co-operate with representatives of law-enforcement agencies of other States and International Organizations. The main issue for the Turkmen side in this kind of co-operation with international organizations would be rendering mutual assistance in search and prosecution of criminals. Turkmenistan officially addressed other states, first of all European states, with a request to assist in arrest and extradition of criminals found at their territories. However, the Turkmen side did not receive such kind of assistance so far.

Moreover, the Delegations of the aforementioned OSCE participating States raised issues concerning the procedure of sending experts to Turkmenistan to examine unfounded information and pure fabrications, but avoided to solve the main issues of co-operation in the sphere of fight against crime and terrorism. Such an approach is absolutely unacceptable because it is based on a mistrust and it insults Turkmenistan as an equal member of the OSCE.

Based on the above, the Turkmen side once again underlines that it is unacceptable to send a mission mentioned in the OSCE/ODIHR letter to Turkmenistan, and requests not to raise this issue with the Turkmen side in the future.

The Ministry of Foreign Affairs of Turkmenistan avails itself of this opportunity to renew to the Office of the Chairman of the OSCE Permanent Council the assurances of its highest consideration.

3.CONSTITUTION OF TURKMENISTAN:

[unofficial translation]

Constitution of Turkmenistan

18 May 1992

No. 691-XII.

(including amendments of 27 December 1995 and 29 December 1999)

*We, the people of Turkmenistan,
based on our inalienable right to self-determination,
proceeding from our responsibility for the present and future of our homeland,
expressing fidelity to the precepts of our ancestors to live in unity, peace, and accord,
possessing the goal of protecting our national values and interests, and securing the
sovereignty of the Turkmen people;
guaranteeing the rights and freedoms of every citizen and striving to provide civic peace and
national accord, in order to affirm the foundations of popular power and the rule of law,—
adopt this Constitution— the Basic Law of Turkmenistan.*

SECTION I: FOUNDATIONS OF THE CONSTITUTIONAL ORDER

Article 1: Turkmenistan is a democratic secular state operating under the rule of law whose government takes the form of a presidential republic. Turkmenistan possesses supreme and plenary power in its own territory and independently implements its domestic and foreign policies. The sovereignty and territory of Turkmenistan are united and indivisible. The government defends the independence and territorial integrity of Turkmenistan, as well as the constitutional order, and ensures legality and legal order.

On the basis of law, Turkmenistan has the status of permanent neutrality. The United Nations, in the 12 December 1995 Resolution of the General Assembly "The Permanent Neutrality of Turkmenistan":

- 1. recognizes and supports Turkmenistan's announced status of permanent neutrality;*
- 2. calls on member states of the United Nations to respect and support this status of Turkmenistan, respecting as well its independence, sovereignty, and territorial integrity.*

This permanent neutrality of Turkmenistan, recognized by the international community, is a foundation of the domestic and foreign policies of Turkmenistanⁱ.

Article 2: The people are the possessors of the sovereignty of and are the only source of the governmental power of Turkmenistan. The people of Turkmenistan exercise their power either directly or through representative organs. No part of the people, no organization, and no individual has the right to arrogate governmental power.

. The citizen is responsible to the government for meeting the obligations placed on her or him by the Constitution and laws.

Article 4: The government is based on the principle of separation of powers into legislative, executive, and judicial powers which function independently, checking and balancing each other.

Article 5: The government and all its organs and officials are bound by the law and the constitutional order. The Constitution of Turkmenistan is the Supreme Law of the state, and the norms and provisions secured in the Constitution have direct effect. Laws and other legal acts which contradict the Constitution have no legal force. The legal acts of governmental organs are published for general notice or are popularized in some other manner, except for those acts which contain state or other legally protected secrets. Legal acts which affect the rights and freedoms of citizens and for which there is no general notice are invalid from the moment of their adoption.

Article 6: Turkmenistan, a fully invested subject of the international community, recognizes the primacy of generally recognized norms of international law and adheres in its domestic policies to the principles of permanent positive neutrality, non-interference in the internal affairs of other states, rejection of the use of force and participation in military blocs and unions, and facilitation of the development of peaceful, friendly, and mutually beneficial relations with countries of the region and states of the world¹.

Article 7: Turkmenistan has its own citizenship. Citizenship is attained, preserved, and lost in accordance with the law. No one can be deprived of her or his citizenship or the right to change her or his citizenship. A citizen of Turkmenistan may not be turned over to another government, driven out of Turkmenistan, or limited in her or his right to return to her or his native land. Citizens of Turkmenistan are guaranteed the protection and patronage of the government of Turkmenistan both on the territory of Turkmenistan and beyond its borders. Turkmenistan extends the right of asylum to foreign citizens persecuted in their countries for their political, national, or religious convictions.

Article 9: Property is inviolable. Turkmenistan affirms the right to own private property such as the means of production, land, and other material and intellectual items of value. They may be owned likewise by the government and associations of citizens. The law establishes objects which may only be the property of the government. The government guarantees equal protection and equal conditions for the development of all types and forms of property. Confiscation of property is not allowed, except for property which is acquired in an unlawful manner. Forced uncompensated estrangement of property is allowed only in situations enumerated by law.

Article 10: The government is responsible for preserving the national historico-cultural heritage and natural environment, as well as for ensuring equality between social and national groups. The government encourages the scientific and creative arts and the dissemination of their achievements, and facilitates the development of international contacts in the fields of science, culture, education, sports, and tourism.

Article 11: The government guarantees freedom of religion and faith and the equality of religions and faiths before the law. Religious organizations are separate from the government, and may not perform governmental functions. The governmental system of education is separate from religious organizations and is secular in nature. Everyone has the right independently to determine her or his own religious preference, to practice any religion alone or in association with others, to practice no religion, to express and disseminate beliefs related to religious preference, and to participate in the performance of religious cults, rituals, and ceremonies.

Article 12: In order to protect its sovereignty, Turkmenistan possesses Armed Forces.

Article 13: Turkmen is the state language of Turkmenistan.

Article 14: The symbols of Turkmenistan, as a sovereign state, are its state flag, coat of arms, and anthem. The flag, coat of arms, and anthem are established by and are protected by law.

Article 15: The capital of Turkmenistan is the city (shakher) of Ashgabat.

SECTION II: BASIC RIGHTS, FREEDOMS, AND OBLIGATIONS OF THE PERSON AND CITIZEN

Article 16: The rights of the person are inviolable and inalienable. No one may deprive another person of any rights or freedoms or limit her or his rights in any manner other than in accordance with the Constitution and laws. Any list of rights and freedoms of the person in the Constitution and laws may not be used to deny or diminish other rights and freedoms.

Article 17: Turkmenistan guarantees the equality of the rights and freedoms of its citizens and, likewise, the equality of citizens before the law regardless of nationality, ethnic origin, property holdings, official status, place of residence, language, religious preference, political convictions, or political party membership.

Article 18: Men and women in Turkmenistan have equal civil rights. A violation of equal rights based on gender will entail legal liability.

Article 19: The exercise of rights and freedoms should not violate the rights and freedoms of other people, moral demands, social order, or harm national security.

Article 20: In Turkmenistan, the person has the right to life and is free to achieve him or herself. No one can be deprived from his right to life. The right of every person to have a free life is protected by the State on the basis of the law.

The death penalty is, in Turkmenistan, totally abolished and forbidden for ever by the first President of Turkmenistan Saparmurat Turkmenbashi¹.

Article 21: A citizen may not be limited in her or his rights, deprived of the rights which belong to her or him, convicted, or subjected to punishment, except in exact accordance with the law and as the decision of a court. No one may be subjected to torture or cruel, inhumane, or degrading treatment or punishment, or, likewise, be subjected without her or his consent to medical or other experiments. A citizen may be arrested only on condition of the existence of grounds specifically indicated by law, by decision of a court, or with the approval of a procurator. In situations, specifically indicated by law, not allowing delay, a governmental organ authorized to do so has the right temporarily to detain citizens.

Article 22: Every citizen has the right to governmental support in the receipt of well-constructed living space and in the construction of individual housing. The home is inviolable. No one has the right to enter a home or in any other manner violate the inviolability of a home against the wishes of the persons residing in that home or without legal justification. Citizens have the right to defend their homes against unlawful encroachments. Unless there are grounds established by law, no one may be deprived of her or his home.

Article 23: Every citizen has the right to be protected from arbitrary interference in her or his personal life, from infringement on written, telephone, or other communications, and, likewise, from infringements on her or his honor or reputation.

Article 24: Everyone has the right freely to move and choose her or his residence within the borders of Turkmenistan. Limitations on movement in certain territories or in regard to certain individuals may be established only in accordance with the law.

Article 25: Men and women, upon reaching the age of marriage, have the right to mutually consent to enter into marriage and form a family. In their familial relations, spouses have equal rights. Parents or guardians have the right and obligation to raise children, ensure their health, development, and education, prepare them for work, and instill in them culture and respect for the laws and historical and cultural traditions. Adult children have the obligation of caring for parents and providing them with assistance.

Article 26: Citizens of Turkmenistan have the right to freedom of conviction and the free expression of those convictions. They also have the right to receive information unless such information is a governmental, official, or commercial secret.

Article 27: The right to gather and hold protests and demonstrations in a lawful manner is guaranteed.

Article 28: Citizens have the right to form political parties and other social associations which operate within the framework of the Constitution and laws. Forbidden are the formation and activity of political parties and other social associations having as their goal violent change in the constitutional order, allowing violence in their activities, agitating against the constitutional rights and freedoms of citizens, advocating war, racial, national, social, or religious animosity, encroaching on the health or morality of the people, or forming militaristic associations or political parties based on national or religious traits.

Article 29: Every citizen has the right to participate in the management of the affairs of the society and the government both directly and through her or his freely elected representatives.

Article 30: Citizens have the right to elect and be elected to organs of governmental power. Only citizens of Turkmenistan in accordance with their abilities and professional preparation have equal rights of access to governmental service.

Article 31: All citizens have the right to work, to choose at her or his own discretion a profession, type of occupation, and place of work, and to healthy and safe work conditions. Forced labor is forbidden, except in situations established by law. Employees have the right to

compensation commensurate with the quantity and quality of their work. This compensation may not be less than the government established subsistence minimum.

Article 32: Workers have the right to relaxation. For employees, this right is expressed in the established work week of limited duration, in annual paid leaves, and in weekly days of rest. The government creates conditions conducive to relaxation in one's area of residence and to the rational use of free time.

Article 33: Citizens have the right to health protection, including use, free of charge, of the government network of health care institutions. Paid medical assistance is permitted in accordance with and in the manner established by law.

Article 34: Citizens have the right to social services if they are elderly, sick, disabled, unable to work, have lost their provider, or are unemployed. Families with many children, children who have lost their parents, and war veterans and other people whose health has suffered in defense of governmental or social interests are provided with additional assistance and privileges out of social funds. The manner of and conditions for exercising this right are regulated by law.

Article 35: Every citizen has the right to education. Elementary and high-school education are mandatory and everyone has the right to receive such education free of charge in governmental educational institutions. The government ensures, commensurate with ability, access for all to professional, specialized vocational, and university education. Organizations and citizens have the right, based on and in the manner established by law, to form fee-based educational institutions.

Article 36: Citizens of Turkmenistan have the right to freedom of artistic, scientific, and technical creation. Intellectual property rights and the legal interests of citizens in the fields of scientific and technical creation and artistic, literary, and cultural activity are protected by law. The government facilitates the development of science, culture, art, folk art, sport, and tourism.

Article 37: The exercise of rights and freedoms is inseparable from fulfillment by persons and citizens of their obligations before society and the government. Everyone living in or located on the territory of Turkmenistan is required to obey the Constitution and laws and respect the national traditions of Turkmenistan.

Article 38: The defense of Turkmenistan is a sacred duty of each person. For citizens of Turkmenistan, it is established that men are obligated to perform general military service.

Article 39: Citizens of Turkmenistan are required to pay government taxes and other payments in the manner and amounts established by law.

Article 40: Citizens are guaranteed legal protection of honor and dignity, and of the personal and political rights and freedoms of the person and citizen enumerated in the Constitution and laws. The actions of governmental organs, social organizations, and officials which have been done in violation of the law, in exceeding their own authority, or in restricting the rights and freedoms of citizens may be protested in court.

Article 41: Citizens have the right to restitution in a legal manner for material and moral harm, suffered as the result of the unlawful acts of governmental organs, other organizations, their employees, and, likewise, private persons.

Article 42: No one may be forced to give testimony or explanations against herself or himself or close relatives. Evidence acquired under the influence of psychological or physical pressure or other unlawful means does not have legal force.

Article 43: A law, worsening the condition of a citizen, may not be ex post facto. No one may be liable for an act which at the time of its commission was not a violation of the law.

Article 44: The exercise of the enumerated rights and freedoms of citizens in this Constitution may be suspended only in conditions of a state of emergency or martial law in the manner and to the extent established by the Constitution and laws.

SECTION III: THE SYSTEM OF ORGANS OF POWER AND GOVERNMENT

Chapter 1: General Provisions

Article 45: The highest representative organ of popular power is the People's Council (Khalk maslakhaty) of Turkmenistan.

Article 46: The highest governmental power in Turkmenistan is exercised by the President, Parliament (Mejlis), the Supreme Court and the Cabinet of Ministers of Turkmenistan¹.

Article 47: Turkmenistan consists of territorial-administrative units: regions (velayat), districts (etrap), and certain cities (equal to districts) in which national government organs form. It also consists of towns, villages, and settlements in which local organs of self-government are founded.

Chapter 2: The People's Council of Turkmenistan

Article 48: The People's Council consists of :

the President ;

the deputies of the Mejlis (Parliament) ;

the People's Advisors (halk vekilleri), elected by the people at the rate of one representative by district (etrap) or by town having the status of etrap ;

the Chairperson of the Supreme Court, the General Procurator (or Prosecutor), the members of the Cabinet of Ministers, the heads of regional administrations, and the chiefs (archyn) of the municipal councils of towns and also of those villages which are the administrative centres of their respective region or district¹.

Article 49: The length of office for a People's Advisor is five years. They fulfill their obligations without compensation.

Article 50: Within the jurisdiction of the People's Council are :

1) the adoption and the amendment of the Constitution ;

2) the constitution of the Central Electoral Commission for Elections and Referenda ;

3) the organisation of national referenda ;

4) the organisation of the control and the monitoring of elections ;

5) the elaboration of recommendations concerning the basic directions of the economic, social, and political development of the country ;

6) the changes to the state borders of Turkmenistan and its administrative and territorial delineations ;

7) the ratification and the denunciation of treaties concerning inter governmental unions and other formations ;

8) the declaration of the conditions of war and peace ;

9) the other issues ascribed to its jurisdiction by the Constitution and laws¹.

Article 51: A decision of the People's Council is effectuated by the President, Parliament, and other governmental organs in accordance with their powers as established by the Constitution and laws.

Article 52: The People's Council is convened when necessary, but not less frequently than once each year by the President, Parliament, or by one-third of the established members of the People's Council. Those that may introduce a proposal for review in the People's Council are the President, Parliament or the Presidium of Parliament, and a group consisting of not less than one quarter of the established number of members of the People's Council.

Article 53: Either the President manages the proceedings of the People's Council or any one of the members of the People's Council elected to do so.

Chapter 3: The President of Turkmenistan

Article 54: The President of Turkmenistan is the head of state and of the executive power, is the highest official of Turkmenistan, and acts as a guarantor of national independence, territorial integrity, and adherence to the Constitution and international agreements.

Article 55ⁱ: Can be elected as President a citizen of Turkmenistan, a Turkmen not younger than forty years of age and not older than 70 years of age and residing in Turkmenistan .

Article 56: The President is elected directly by the people of Turkmenistan for a term of five years and assumes office immediately after taking oath at a session of the People's Council. The presidential election and the assumption of office occur in the manner established by law.

Article 57: The President of Turkmenistan:

- 1) enacts the Constitution and laws and ensures their exact execution;
- 2) manages the implementation of foreign policy, representing Turkmenistan in relations with foreign governments, appoints and recalls ambassadors and other diplomatic representatives of Turkmenistan in other countries and in intergovernmental and international organizations, and accepts the credentials and departures of the diplomatic representatives of foreign governments;
- 3) is the Supreme Commander of the Armed Forces, issues orders of general or partial mobilization or use of the Armed Forces subject to subsequent approval of these actions by the People's Council, and appoints the highest commanders of the Armed Forces.
- 4) presents the People's Council with a yearly report about the state of the country and provides information about the most important questions of domestic and foreign policy;
- 5) presents for review and approval to the Parliament the governmental budget and a report on its utilization;
- 6) signs laws and has the right, within two weeks, to return laws to Parliament with her or his objections for additional discussion and vote. If two thirds of Parliament votes to affirm its earlier decision, the President signs the law. The President does not have the right to delay by veto laws on amendment and addition to the Constitution;
- 7) schedules referenda approved by the People's Council and has the right to convene Parliament ahead of schedule;
- 8) decides questions about the granting of Turkmenistan citizenship and asylum;
- 9) awards orders and other awards of Turkmenistan, confers honorary, military, and other special state titles, ranks, and distinctions;
- 10) *appoints and recalls, with Parliament's preparatory consent, the Chairperson of the Supreme Court, the General Prosecutor, the Minister of Internal Affairs and the Minister of Justiceⁱ;*
- 11) grants pardons and amnesties;
- 12) decides other issues ascribed to her or his jurisdiction by the Constitution and laws.

Article 58: The President issues decrees, resolutions, and orders which have mandatory force throughout Turkmenistan.

Article 59: The President may not be a deputy of Parliament or receive other financial compensation, with the exception of honoraria for the creation of works of science, literature, or art.

Article 60: The President has the right of immunity. The President may be prematurely relieved of office if incapable of meeting her or his obligations because of sickness. The People's Council, on the basis of the conclusion of an independent medical commission formed under its auspices, decides to prematurely relieve the President of office when not less than two-thirds of the established members of the People's Council so vote. If President violates the Constitution or laws, the People's Council may express its lack of confidence in the President and put forward to a popular vote the question of her or his removal. A question of lack of confidence is put forward for consideration when not less than one-third of the established members of the People's Council so desire. A decision of lack of confidence in the President is made when not less than two-thirds of the established members of the People's Council so vote.

Article 61: The President may not transfer her or his executive powers to other organs or officials, except for the powers enumerated in parts 2, 9, and 11 of Article 57 of the Constitution, which may be transferred to the Chair of Parliament. If the President, for some reason, is not capable of meeting her or his obligations, until the election of a new President, her or his powers are transferred to the Chair of Parliament. In such a situation, a presidential

election should be conducted no later than two months from the day of transfer of powers to the Chair of Parliament. A person meeting the obligations of the President may not be a candidate in the presidential election.

Chapter 4: The Parliament of Turkmenistan

Article 62: The Parliament is the legislative organ of Turkmenistan.

Article 63: Parliament consists of 50 deputies, elected from territorial districts having roughly equal numbers of voters, for a term of five years.

Article 64: Parliament may be prematurely dissolved:

by decision of a referendum

by a resolution of Parliament when not less than two-thirds of the established number of deputies so vote (self-dissolution).

by the President if Parliament fails to form parliamentary leadership organs within six months or if a second proclamation of no confidence within an eighteen month period is issued against the Cabinet of Ministers.

Article 65: Parliament independently establishes both the validity of elections for parliamentary seats and the powers of deputies, elects a Chair and Assistant Chair from the ranks of deputies, and forms committees and commissions.

Article 66: Parliament may transfer the right to issue laws on certain issues to the President subject to mandatory subsequent approval of them by Parliament.

Parliament may not transfer its legislative functions on issues of:

1° criminal and administrative legislation;

2° judicial process¹.

Article 67¹: The Parliament is competent for :

1) adopting, amending and interpreting the laws and ensuring their enforcement control. The ensuring of the execution of the laws is done on the basis of the appropriate Regulation through the medium of the Cabinet of Ministers. Divergences between the Parliament and the Cabinet of Ministers are arbitrated by the President of Turkmenistan ;

2) scheduling for the President's, members of Parliament's and People's Advisors' elections;

3) approving action plans of the Cabinet of Ministers ;

4) scrutinizing, at the suggestion of the President of Turkmenistan, issues related to the appointment and the dismissal of the Chair of the Supreme Court, the General Procurator, the Minister of Internal Affairs and the Minister of Justice ;

5) adopting the budget of Turkmenistan and approving the report of its utilization;

6) creating state awards and distinctions, awarding the President with state awards and distinctions, and conferring upon the President honorary titles, military ranks, and distinctions.

7) ruling on the constitutionality of normative acts emanating from State and governmental organs ;

8) other issues ascribed to the powers of Parliament by the Constitution and laws

Article 68¹: The right to introduce legislation in Parliament belongs to the President of Turkmenistan, the members of Parliament, the Cabinet of Ministers and the Supreme Court.

Article 69: Deputies of Parliament have the right of inquiry, in the form of oral and written questions addressed to the Cabinet of Ministers, ministers, and heads of other governmental organs.

Article 70: A deputy may be stripped of her or his powers as a deputy only by Parliament. Such a decision is made when not less than two thirds of the established number of deputies of Parliament so vote. A deputy may not be brought to criminal trial, arrested, or otherwise deprived of her or his freedom without the assent of Parliament or, in the period between sessions, of the Presidium of Parliament.

Article 71: Parliament is a constantly operating organ and deputies may not simultaneously occupy office as a member of the Cabinet of Ministers, as head of administration of a region, town, or district, as chief of a municipal council, as a judge, or as a procurator.

Article 72: The Chair of Parliament is elected by publicⁱ ballot. She or he is subordinate to Parliament and removed when not less than two thirds of the established number of members of Parliament so vote. The Assistant Chair of Parliament is elected in an open vote and fulfills certain functions of the Chair delegated to her or him by the Chair, and fills in for the Chair in case of the Chair's absence or inability to exercise her or his powers.

Article 73: The Presidium of Parliament organizes the work of Parliament, and considers issues ascribed to its jurisdiction by the Constitution and laws. The Presidium is composed of the Chair and Assistant Chair of Parliament and the chairs of committees and commissions.

Article 74: The manner of work of Parliament, its organs, and deputies, as well as those of its functions and powers not regulated by the Constitution, are established by law.

Chapter 5: The Cabinet of Ministers

Article 75: The Cabinet of Ministers is an executive and management organ. The President chairs the Cabinet of Ministers.

Article 76: The Cabinet of Ministers is composed of assistants to the chair of the Cabinet of Ministers and ministers. *The President of Turkmenistan can call into the Cabinet of Ministers other leaders heading central organs of the executive powerⁱ.*

The Cabinet of Ministers is formed by the President within one month after her or his assumption of office and relinquishes its powers to a newly elected President.

Article 77: A meeting of the Cabinet of Ministers is managed by the President, or this function is delegated by her or him to one of the assistants to the chair of the Cabinet of Ministers. The Cabinet of Ministers, within the bounds of its jurisdiction, makes decisions and issues resolutions and orders which must be executed.

Article 78: The Cabinet of Ministers:

- 1) organizes the execution of laws, Presidential acts, and decisions of the People's Council;
- 2) takes measures to ensure and defend the rights and freedoms of citizens, and to protect property, social order, and national security;
- 3) develops and introduces in the People's Council proposals concerning the basic directions of the government's domestic and foreign policy activity, and programs for the economic and social development of the country;
- 4) implements governmental management of economic and social development and ensures the rational use of and protection of natural resources;
- 5) takes measures to strengthen the monetary and credit systems;
- 6) in case of necessity, forms committees, bureaus, and other agencies under the auspices of the Cabinet of Ministers.
- 7) effectuates foreign economic policy and ensures the development of cultural connections with foreign governments;
- 8) manages the activities of governmental institutions and state enterprises and organizations, and has the right to repeal the acts of ministries and agencies;
- 9) meets other obligations ascribed by laws and other normative acts to its jurisdiction.

Article 79: The powers of the Cabinet of Ministers, the manner of its activity, and its relationship with other governmental organs are determined by law.

Chapter 6: Local Executive Power

Article 80: Local executive power is held: in a region by the governor (hyakim) of the region, in a town by the governor of the town, in a district by the governor of the district, and by municipal councils.

Article 81: Governors are the local representatives of the head of state, are appointed to and withdrawn from office by the President, and are subordinate to the President.

Article 82: Governors manage the activities of governmental organs at the local level, ensure adherence to the Constitution, laws, and acts of the President and the Cabinet of Ministers.

Without transgressing their authority, governors adopt resolutions which must be adhered to in the areas subject to their jurisdiction.

Article 83: Chiefs ensure the execution of decisions of local meetings (gengeshi) and of acts of organs of state power and government, exercise control over objects of municipal property, manage the local budget, and also decide other questions of local significance.

Article 84: The scope of the functions and power of governors and chief, the manner of their work, and their interrelationships with other organs of power and government are established by law.

SECTION IV: LOCAL SELF-GOVERNMENT

Article 85: The local meetings and organs of territorial civic self-government form a system of local self-government. The local meetings are representative organs of popular power on the territory of towns, villages, and settlements. They are elected directly by citizens for a term of five years and are not administratively subordinate to each other

Article 86: Within the jurisdiction of local meetings are:

- 1) determining the basic directions of economic, social, and cultural development of their areas;
- 2) approving the local budget and the report of its utilization;
- 3) establishing local taxes and tariffs and the manner of their collection;
- 4) determining measures for the rational use of natural resources and for nature protection;
- 5) other issues ascribed to the jurisdiction of local meetings by law.

Without transgressing their authority, local meetings adopt decisions which must be adhered to in their areas.

Article 87: A local meeting elects a Chief from within its ranks who manages the work of the local meeting and is subordinate to the local meeting.

Article 88: Persons elected to local meeting meet their obligations without compensation. The manner of activity of local meetings and other organs of civic self-government are determined by law.

SECTION V: THE ELECTORAL SYSTEM AND REFERENDA

Article 89: Elections for the President, deputies of Parliament, People's Advisors, and other popularly elected officials are general and equal. Any citizen of Turkmenistan who has reached 18 years of age has the right to vote, and each voter has one vote. Not allowed to vote are citizens who are psychologically ill and have been declared by a court to be incompetent. Also not allowed to vote are persons currently imprisoned by sentence of a court, as well as individuals who, in the manner established by the law of criminal procedure, are subject to a restraining order and are in custody. Any other direct or indirect limitation of the voting rights of citizens in any other situation is not allowed and is punishable by law.

Article 90¹: Can be elected as members of the Mejlis or People's Advisors the citizens of Turkmenistan not younger than 25 years of age at the time of elections and domiciled in Turkmenistan for more than ten years. The conditions applying to the candidates to the office of member of the Mejlis, People's Advisor or member of a guenguch are defined by the legislation of Turkmenistan

Article 91: Elections are direct; deputies and other officials are elected directly by citizens.

Article 92: Voting in elections is by secret ballot, and monitoring of the expression of the will of voters during voting is not allowed.

Article 93: The right to nominate candidates belongs to political parties, social associations, and groups of citizens in accordance with election law.

Article 94: To decide the most important questions of governmental and social life, general and local referenda may be conducted. An act adopted by decision of a referendum may only be repealed by decision of a general referendum.

Article 95: The right to schedule a general referendum belongs to the People's Council on the petition of not less than one quarter of its members or on the petition of not less than 250 thousand citizens who have the right to vote.

Article 96: The right to schedule a local referendum belongs to a local meeting at its discretion or upon the petition of not less than one quarter of the voters living in the area in question.

Article 97: Voting in referenda is universal, equal, direct, and secret. Citizens of Turkmenistan who have the right to vote may participate in referenda.

Article 98: The method of conducting elections and general and local referenda is determined by law. Elections and referenda are not conducted during a period of state of emergency.

SECTION VI: JUDICIAL POWER

Article 99: The judicial power in Turkmenistan belongs only to the courts. The judicial power is intended to defend the rights and freedoms of citizens and the legally protected interests of government and society.

Article 100: *The judicial power is exercised by the Supreme Court and by other tribunals established by law¹.*

The establishment of emergency courts and other structures endowed with the power of a court is not allowed.

Article 101: Judges are independent, are subordinate only to the law, and are controlled only by their internal convictions. Intercession in the activity of judges, no matter by what party, is not allowed and incurs legal liability. The immunity of judges is guaranteed by law.

Article 102: Judges of all courts are appointed by the President for terms of five years. The manner of appointment and dismissal of judges is determined by law. Until the expiration of her or his established term of office, a judge may be dismissed from office without her or his consent only by decision of a court and for a reason enumerated in the law.

Article 103: Judges may not occupy any other paid position, except teaching and research positions; while they are in office, judges may not be in any political parties or social associations which pursue political goals.

Article 104: Court cases are heard by a panel of judges, but in certain cases enumerated by law, they are heard by individual judges.

Article 105: In all courts, trials are open. Closed hearings for a case are only allowed when anticipated by law and with adherence to all rules of legal procedure.

Article 106: The legal process is conducted in the state language. Persons participating in a case who do not speak the language of the legal process are ensured the rights to acquaint themselves with the materials of the case, to participate in the legal proceedings through an interpreter, and to speak in the court in their native language.

Article 107: Justice is implemented on the basis of the adversarial nature and equality of parties. Parties have the right to appeal the decisions, sentences, and other judicial decisions of any of the courts of Turkmenistan.

Article 108: The right to professional legal assistance is recognized at any stage of the legal process. Lawyers and other persons and organization provide legal assistance to citizens and organizations.

Article 109: The jurisdictions, manner of formation, and activity of courts are determined by law.

SECTION VII: THE PROCURACY

Article 110: In Turkmenistan, the General Procurator of Turkmenistan and those procurators subordinate to her or him are assigned supervision over the exact and uniform adherence to laws and to acts of the President, organs of state government, the leadership of the Armed Forces, and local self-government by participants in industrial and commercial activity, organizations and institutions, social associations, officials, and private citizens.

Article 111: The Procuracy supervises the legality of law enforcement investigative activity, criminal investigations, and investigative materials.

Article 112ⁱ: The General Procurator and those procurators subordinate to her or him, in exercising their powers, are directed only by the law. In her or his activity, the General Procurator is subordinate to the President. Procurators, while they are in office, may not be in any political parties or other social associations which pursue political goals.

SECTION VIII: FINAL PROVISIONS

Article 113: Laws and other acts of governmental organs of Turkmenistan are issued on the basis of and in accordance with the Constitution. If there is a discrepancy between a law and the Constitution, the Constitution is declarative.

Article 114: The provisions of the Constitution concerning a republican form of government may not be amended.

Article 115: A Law of Constitutional Amendment is considered adopted when no less than two thirds of the established number of deputies in Parliament vote in favor of it.

The President of Turkmenistan S. Niyazov

Ashgabat

18 May 1992

No. 691-XII.

Amended on 27 December 1997 and on 29 December 1999.

4 PUBLIC REPORTS OF THE GENERAL PROSECUTOR ABOUT THE INVESTIGATION ON THE EVENT OF 25 NOVEMBER 2002

4.1. General Prosecutor's TV-broadcast report (4 December 2002).

WATAN TV NEWS

4 December 2002 Wednesday. 21:00

Subject: Entire content of report of Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova on the results of preliminary investigations of evil incident that took place on November 25, 2002.

This report was first broadcasted on TV on December 3, 2002 and was replayed again on December 4, 2002. In the beginning of her report, Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova praised great efforts of Saparmurat Turkmenbashi the Great for the sake of Turkmen people and strongly condemned those who made an attempt on the life of our dear leader and then started the main part of her report.

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Criminals were completely uncovered. They were detained and will carry the deserved punishment in accordance with the legislation. Organizers of such evil act strongly condemned by world community were revealed: They are Mr. Boris Shikhmuradov, Mr. Nurmukhammet Hanamov, Mr. H. Orazov, Mr. Sapamurat Yklymov and Mr. Guwanch Jumayev. In accordance with the order of President of Turkmenistan, investigation commission consisting of employees of the Ministry of National Security of Turkmenistan, Ministry of Internal Affairs of Turkmenistan and General Prosecutor's Office of Turkmenistan was established for the purpose of investigation of terror act that took place approximately at 7:14 a.m., along Turkmenbashi road of Ashgabat on November 25, 2002. The following were revealed during the preliminary investigation of this organized crime. It was fully confirmed during the course of the investigations that this crime intended for assassination on the life of President of Turkmenistan, Saparmurat Turkmenbashi the Great was organized by especially dangerous criminal scoundrel Boris Shikhmuradov who fled abroad by committing very grave offences and by betraying Independent Permanently Neutral Turkmenistan and his companions Mr. Nurmukhammet Hanamov, Mr. H. Orazov, Mr. Sapamurat Yklymov and Mr. Guwanch Jumayev. Mr. Boris Shikhmuradov established criminal band for this purpose and directly lead this band. He determined and distributed the duties and functions of the members of the criminal band, role of each of them and also appointed lead criminals.

Thus, he conspired with his companions and prepared for this very grave offence since the beginning of this year intended against the President of Turkmenistan, Saparmurat Turkmenbashi the Great, Independent Turkmenistan and its people, taking over the government of Turkmenistan by using force and forcefully changing the Constitutional structure. The main objective of this criminal band established by Shikhmuradov and his companions Hanamov, Orazov, Yklymov and Jumayev is to assassinate on the life of President of Turkmenistan, Saparmurat Turkmenbashi the Great, carry out *coup d'etat*, and take over the government forcefully in a criminal way. Shikhmuradov together with Hanamov, Orazov personally financed this criminal band and hired the citizens of Russian Federation by paying big amounts of money and included them in this criminal band. He provided the mercenaries with 500 USD each monthly. Reward of each mercenary upon full execution of the crime was 25,000 USD. They promised that in the case of wound of any member of the criminal band, 50,000 USD will be provided to their families. Shikhmuradov instructed Hanamov, Yklymov and his close friend Erdal Akgardal to hire the foreign mercenaries for this crime. Shikhmuradov together with Hanamov personally purchased guns,

walkie-talkies, military field uniforms, masks and other criminal equipment in the Russian Federation and fully provided this criminal band with arms and criminal tools. Shikhmuradov instructed his close friend and mercenary Yilmaz Mehmet Iskhan to train the members of the criminal group to use guns and personally provided him with 15,000 USD during his one visit to Shikhmuradov in Moscow city. Shikhmuradov instructed to lead and execute this crime in Turkmenistan to the former chairman of “Gayrat” Corporation, Mr. Guwanch Jumayev who embezzled state properties in big quantities and who was deprived of liberty by the court, as well Yklymov Yklym and Yilmaz Mehmet Iskhan. Shikhmuradov instructed Yklym Yklymov and Guwanch Jumayev to accept, hide, and provide room and board to the mercenaries. Thus, Shikhmuradov together with Sapar Yklymov hired three Chechen citizens of Russian Federation, Mr. Sadullayev Ruslan, Mr. Bishoyev Amirbek, and Mr. Nuraliyev Magommet. Shikhmuradov personally flew to Baku city and paid 500 USD for each of them to formalize fake documents and visas for them and sent them to Turkmenistan on the 25th of May, 2002. Criminal Yklymov Yklym greeted them on that day and took them to his house first and then took them to the house of his brothers Yklymov Sapar and Yklymov Annamukhammet located at the 2nd passage of Tselinniy Street and hid them and trained them for the crime.

Six Turkish mercenaries Ekrem Chelik, Shady Chelik, Omur Yokush, Mustafa Nesut Guler, Nejat Bayram, and Yilmaz Mehmet Iskhan were also hired for the execution of this crime. Two of them were brought into Turkmenistan by Mr. Guwanch Jumayev by formalizing invitation for them to Turkmenistan via “Gayrat” Corporation and four of them were brought to Turkmenistan by Mr. Erdal Akgardal by formalizing their documents via Sheraton Grand Turkmen Hotel. They arrived to Turkmenistan on November 2, 2002 and November 7, 2002 and along with another mercenary Moldovan Mr. Komarovskiy Leonid with the American passport were housed, fed and hidden by Mr. Guwanch Jumayev and Yklym Yklymov in the house #15 of the 2nd Tselinniy passage of Ashgabat, in apt #2 of house #13 of the 13th military cantonment, in apt #103 of house #5 of the Parakhat 2/4 micro residential district, apt #21 of house#1 of the 5th Oguzkhan passage of the 10th micro residential district and in the country-house located in Choganly (suburb of Ashgabat). Shikhmuradov and Hanamov sent arms to Turkmenistan with transit cargo trucks by hiding them in especially designed caches in those trucks. These arms were accepted by Jumayev Guwanch and Mr. Yklym Yklymov and were concealed in the above mentioned house #15 of the 2nd Tselinniy passage of Ashgabat. These arms were brought to the country house of Guwanch Jumayev by Yklymov and Jumayev located in Choganly town (suburb of Ashgabat) on November 23, 2002.

All the bandits were brought to this country house on the next day on November 24, 2002 with the cars belonging to Guwanch Jumayev and Yklym Yklymov: VAZ-21063 with the state registered number F 72-02 AG, VAZ-2107 with the state registered number 08-00 AGA and also in “GAZEL” and “Jeep” brand cars and all the bandits were gathered at this country house by 9 p.m. Guwanch Jumayev, his father Rozy Jumayev, brother Chary Jumayev and son Timur Jumayev and also director of individual firm “Turkmenojak”, Mr. Yklym Yklymov, his brothers Annamukhammet Yklymov and Orazmamet Yklymov accepted the foreign mercenaries Russian citizens, Chechens, Turks, Armenians and Turkmens hired by Shikhmuradov and his companions for the execution of this crime and drank alcoholic beverages and used narcotic drugs such as opium and heroine together with them till the early morning and distributed the roles in the criminal act among themselves. They prepared for this heavy crime till the early morning next day on November 25, 2002. At approximately 06:00 a.m. on November 25, 2002, mercenaries were dressed in military uniforms, masks and were provided with machine guns, rifles, and pistols and departed from the country house with two GAZEL cars with the state registered numbers F 73-32 AG and D 86-88 AN, “Mitsubishi-Pajero” car with the state registered number E 36-96 AG and BMW without the number. On the way, they took “KamAZ” truck with the state registered number

72-91 AGA belonging to Mr. Yklym Yklymov from the car park located near the individual firm “Turkmenojak” of Mr. Yklym Yklymov and drove up to the intersection of Yashlyk and Turkmenbashi Shayoly streets. In this place, they parked two GAZEL cars with Chary Jumayev, Orazmammot Yklymov, Ilamanov, Atanesyan, Sadullayev, Bishoyev, Nuralyev, Ekrem Chelik, Shady Chelik, Omur Yokush, Mustafa Nesut Guler, Nejat Bayram, and Yilmaz Mehmet Iskhan inside those cars and they waited among houses located along the street. BMW car with Timur Jumayev, Rovshen Dovletov and Annamukhammet Yklymov inside was parked in the pedestrian path on the side of the stadium. “KamAZ” truck with Guwanch Jumayev inside was parked along Yashlyk street. Thus, the criminals were prepared and waited for the execution of the crime. Yklym Yklymov with “Mitsubishi-Pajero” car with the state registered number E 36-96 AG and the relative of Guwanch Jumayev, Nepes Hemrayev and Leonid Mr. Komarovskiy with VAZ-2107 with the state registered number 08-00 AGA waited in the intersection of Turkmenbashi Shayoly street and Georogly street. All of them waited for the execution of the crime with machine guns, rifles, and pistols.

At approximately 7:10 a.m. in the morning on November 25, 2002, our dear President of Turkmenistan, Saparmurat Turkmenbashi the Great was driving to work to his Palace by Turkmenbashi Road of Ashgabat. After the head of the state passed nearby Yashlyk Street, Mr. Jumayev Guwanch blocked the Turkmenbashi Road with his KAMAZ truck and thus blocked the way to “Peugeot”, “VAZ 2110” and “UAZ-6” cars of Road Traffic Control Service and opened fire at the stopped cars by jumping off his truck. At the same time, armed mercenaries dressed in camouflage uniforms with black masks who came out of two GAZEL cars that were parked among the residential buildings on one side of the street and BMW car that was parked on the other side of the street started shooting at these stopped cars by supposing that they were the cars of our dear President and created a danger that could’ve resulted in human losses and thus violated the public security. However, criminals could not execute their criminal act till the end and escaped from the place of the incident.

One of the things that should be noted here is that the dangerous criminal Jumayev Guwanch was the first to start shooting and he instructed that other waiting criminals should continue the shooting only after he starts shooting first. During the shooting, the bullets shot by criminals wounded each other as well as 4 soldiers of State Road Traffic Control Service, namely Halmyradov, Aklyev, Achylov and Bashimov. Currently, surgery made on seriously wounded Halmyradov was successfully completed and his health conditions improved. Other three soldiers who received light body injuries already recovered and checked out from the hospital. Thanks to the very fast and correct measures taken by law enforcement agencies, dangerous criminals were detained.

The fact that dangerous criminals Shikhmuradov, Hanamov, Orazov, Yklymov and Jumayev and others established this criminal group for the perpetration of this very grave offence, lead this criminal group, prepared the assassination on the life of President of Turkmenistan for the purpose of forceful overturn of the government, changing the current Constitutional structure were fully confirmed by Guwanch Jumayev, Timur Jumayev, Rozy Jumayev, Annamukhammet Yklymov, Nepes Hemrayev, Rovshen Dovletov, mercenaries Sadullayev, Bishoyev, Nuralyev, Ekrem Chelik, Omur Yokush, Mustafa Nesut Guler, Nejat Bayram, Yilmaz Mehmet Iskhan and Atanesyan Aram who were questioned during the preliminary investigation and by the testimonies of witnesses, sufferers, and the results of identification parades (face to face identification meetings). The above mentioned fact was also fully proved by the results of video taped investigative experiment in the crime scene, as well as with total of 39 units of arms including 11 units of machine guns, 23 units of rifles, 4 units of pistols, ammunitions, magazines for patrons, masks, camouflage uniforms, walkie-talkies, cars confiscated from the place of crime and hidden places in the caches of houses as

well as results of forensic and medical examinations and other material evidences collected during the course of the investigation.

Questioned accused and direct executor of the terror act Guwanch Jumayev testified that he together with Shikhmuradov, Hanamov, Orazov, and Yklymov established criminal group headed by Shikhmuradov and prepared an assassination on the life of President of Turkmenistan. Guwanch Jumayev also testified and confirmed that the main organizer and mastermind of the group was Shikhmuradov. He also testified and confirmed that Shikhmuradov hired foreign mercenaries, distributed the duties of everyone, that Shikhmuradov and Hanamov sent arms from the Russian Federation, that Shikhmuradov appointed him as a chief to execute this crime and that he gave Yklym Yklymov to accompany him and that Shikhmuradov personally purchased military uniforms, masks, walkie-talkies and arms for him from the Russian Federation and that Shikhmuradov instructed mercenary Yilmaz Mehmet Iskhan to train the members of the criminal group to use guns.”

Guwanch Jumayev:

I am Guwanch Jumayev. It is true that I participated in the organized criminal group and perpetrated a grave offence. Former Deputy Chairman of the Cabinet of Ministers of Turkmenistan, former Minister of Foreign Affairs, terrorist Shikhmuradov Boris, Hanamov Nurmukhammet, Oraz H., Yklymov Yklym, Yklymov Sapar and me organized this grave offence. Terrorist Shikhmuradov lead us and distributed our duties among us. He was a main organizer and mastermind of the criminal group. The objective of this criminal group was to carry out *coup d'etat* (forceful overturn of government) in Turkmenistan. Shikhmuradov instructed me and Yklymov Yklym to carry out this crime in Turkmenistan on Monday, November 25, 2002.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

He (Guwanch Jumayev) testified that in the evening on November 24, 2002, he accepted all of the participants of this dangerous crime including mercenaries and drank alcoholic beverages and used narcotic drugs together with them till the early morning. He also confirmed that he dressed up mercenaries with military uniforms, and provided them with machine guns, rifles, masks, walkie-talkies and departed from the country house with two GAZEL cars at approximately 06:00 a.m. in the morning on November 25, 2002 and that he let his brother Jumayev Chary to drive GAZ 31 car to accompany them. He also confirmed that his son Timur, and Dovletov Rovshen went with the BMW car without the number, Yklymov Yklym drove “Mitsubishi-Pajero” car and that his nephew Nepes Hemrayev and Leonid Mr. Komarovskiy went with VAZ-2107 car and others. He also testified that these cars were driven up to the intersection of Yashlyk and Turkmenbashi Shayoly streets and they parked two GAZEL cars among the residential buildings located along the street and parked BMW car in the pedestrian path on the side of the stadium and that he himself waited in “KamAZ” truck in civilian suit without mask and that he blocked the Turkmenbashi Shayoly Street at approximately 7:14 a.m. in the morning and he himself first started shooting at the stopped cars, which were followed by shooting of people who came out of GAZEL and BMW cars and that shooting took place from three sides. Because their plan was not executed till the end, he informed Yklymov Yklym standing nearby in that street, Hemrayev Nepes and others with his walkie-talkie that their plan was not fulfilled.”

Guwanch Jumayev:

Because the criminal group did not fulfill its tasks, the rest of the plans were pointless.

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

He (Guwanch Jumayev) fully confirmed and acknowledged his testimony. He also told that all of them escaped and then left their arms and uniforms at that country house in Choganly.

Guwanch Jumayev:

Even though it is late, I realized that I became the victim of Shikhmuradov and that I was like a laughingstock for them. Now, I very much regret for my actions. I am guilty. Please shoot me and I am ready for that. However, I very much regret as a criminal who became the victim of group of betrayers and I regret for it once again and feel very ashamed. If you could pardon, I would like to ask you very much to pardon my old father, my son Timur and my brother Chary in the holy month of Ramadan for believing in my words. My tongue does not even turn (allow me) to ask you for my own pardon.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Guwanch Jumayev instructed his son Timur to take all the arms and uniforms and bury them in the henhouse in his country house and he himself escaped from that place. Questioned Jumayev Timur fully confirmed that his father Jumayev Guwanch was in one criminal group together with terrorist Shikhmuradov, Hanamov, Orazov, and Yklymov. He also told that he was the member, executor of this criminal group by the order of his father Jumayev Guwanch and that he departed from the country house with BMW car together with Dovletov Rovshen at 6 a.m. in the morning and waited in the pedestrian path located on Turkmenbashi Shayoly street on the side of the stadium and that when the President’s car and cars accompanying Presidential car reached the Yahslyk street, his father exited from Yashlyk street to Turkmenbashi Shayoly street with his KamAZ truck and blocked the street and that his father jumped out of the truck and started firing first at the stopped cars with the machine gun. He also testified and confirmed that based on the order of his father to everyone, i.e. “when I will start opening fire first, all of you will follow me by opening fires”, he and others started shooting from three sides with machine guns and rifles at the stopped cars”.

Timur Jumayev:

First my father jumped off his KamAZ truck and started shooting at the stopped cars with machine guns and then we and others started shooting from rifles. After that, my father ordered us with his walkie-talkie that we should return to the country-house.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

After they returned to the country house, he (Timur Jumayev) saw the mercenaries taking out their military uniforms and leaving the house one by one. He also testified and confirmed that he buried the arms left from mercenaries, i.e. four machine guns, three rifles and uniforms in the henhouse after that by the instruction of his father. During the course of investigation of this very serious crime, Rozy Jumayev (father of Guwanch Jumayev) was questioned. In his testimony he testified and confirmed that his son Guwanch Jumayev in fact was part of the criminal group established by Shikhmuradov, Hanamov, Orazov, and Yklymov and lead the execution of this crime and that his son visited Shikhmuradov for several times in Moscow and that he continuously talks with Shikhmuradov over the phone and that they gathered the participants of the crime, i.e. his son Chary, grandson Timur as well as Turkmen guys, three mercenaries Chechen citizens of Russian Federation, Turks, Armenian and Moldovan guys on November 24, 2002 by 9 p.m. in the evening in their country-house in Choganly.

Rozy Jumayev:

I do acknowledge that I in fact committed a grave offence by housing the organized criminal band in my house and creating them an opportunity for them to gather there. Boris Shikhmuradov instructed my son Guwanch Jumayev to perpetrate this crime on November

25, 2002. I remember that my son Guwanch visited Boris Shikhmuradov for several times in Moscow.

General Prosecutor of Turkmenistan, Mrs. Gurbanbibi Atajanova:

He also confirmed his son Guwanch saying that “After we take over the state forcefully by committing this crime, it will be announced on TV and Radio and people will go to the street and each of us will be given 25,000 USD by Shikhmuradov, Hanamov, and Yklymov and in the case of death of a member of the band, then the family of the dead will be given 50,000 USD”. He also fully testified and confirmed that at approximately 6 a.m. in the morning, his son Guwanch distributed machine guns, rifles, pistols, ammunitions, walkie-talkies, military uniforms and they left the country house with the cars and that most of them returned back to the country-house by 8 a.m. and that their plan did not succeed. Questioned mercenaries, Russian citizens of Chechen nationality Sadullayev Ruslan, Bishoyev Amirbek and Nuralyev Magommet confirmed that they arrived to Turkmenistan on May 25, 2002 with fake visas that Shikhmuradov obtained for them by paying 500 USD for each.”

Mercenary, Russian citizen of Chechen nationality:

He made passports, visas for us and then we went to Turkmenistan. We lived at Aman’s house. He visited us several times and took us on the 10th and 15th. He had a house nearby. We arrived to his house and there were rifles and machine guns. There were about 10 machine guns and 20 rifles.

Prosecutor interviewing the mercenary:

There were Turks as well and they went with you, right?

Mercenary, Russian citizen of Chechen nationality:

Turks came first and then we came.

Prosecutor interviewing the mercenary:

How many Turks were there?

Mercenary, Russian citizen of Chechen nationality:

There were about five of them.

Prosecutor interviewing the mercenary:

What did they tell you about their plan?

Mercenary, Russian citizen of Chechen nationality:

They said they are going to take over the President, the security.

Prosecutor interviewing the mercenary:

Where and in which place?

Mercenary, Russian citizen of Chechen nationality:

I don’t know that place.

Prosecutor interviewing the mercenary:

Was it a house or street?

Mercenary, Russian citizen of Chechen nationality:

It was a street and we exited from the main road and parked among the buildings along that street and we waited there. When all of that started, they woke me up and then we all jumped off the car. The shooting started. I can’t remember exactly who were shooting and where they were shooting.

Prosecutor interviewing the mercenary:

Where did you park your car and where did you shoot?

Mercenary, Russian citizen of Chechen nationality:

We were about 50-60 meters from cars. Then the panic has started and we all returned back to the cars, me and my two fellows, Timur run and we all went in one car and the Turks came with another car.

Prosecutor interviewing the mercenary:

Who opened fire at the accompanying cars?

Mercenary, Russian citizen of Chechen nationality:

I did not see who were firing. I stood in the back.

Prosecutor interviewing the mercenary:

Did you stand near Timur?

Mercenary, Russian citizen of Chechen nationality:

I did not stand near Timur. The panic has started.

Prosecutor interviewing the mercenary:

What kind of panic?

Mercenary, Russian citizen of Chechen nationality:

I heard screams like “run off”. There were signals. The panic took place. No one stood near Timur.

Prosecutor interviewing the mercenary:

What kind of signals did you hear?

Mercenary, Russian citizen of Chechen nationality:

I heard the car signals.

Yklymov Amanmukhammet:

My name is Yklymov Amanmukhammet Bagshyevich. They (mercenaries) came to me in the beginning of September, 2002. They named themselves as Jamal, Kazbek and Myrat and said that they are of Georgian nationality. I observed them and said to myself that they are not Georgian because Georgians do not pray namaz (Muslim prayer) and thought they could be Abkhazians, which are part of Georgians. They said they would like to carry out *coup d’etat* (overthrowing government) and in the afternoon on November 25, 2002, I realized that they carried out *coup d’etat*. They left my house in the evening on November 24, 2002 and Yklym took them. I can’t remember who came with Yklym to my house to take them. I just saw Yklym and I did not see others. I saw Yklym standing with them (mercenaries). He said that he would like to take them away in the evening on November 24, 2002. I saw them again the next day on November 25, 2002 at approximately 8 a.m. I saw them when I was about to leave with my son. They asked me to find Yklym. They said something like “it did not work out” or something like that. I entered my house and called the mobile of Yklym. I told them that they are asking for him but he hang up the phone immediately. I told him that they said “it did not work out” but he hang up the phone.

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Mercenaries Ekrem Chelik, Shady Chelik, Omur Yokush, Mustafa Nesut Guler, and Nejat Bayram fully acknowledged their guilt. In their testimonies, they testified and fully confirmed that Shikhmuradov and his companions Hanamov, Orazov, Yklymov and Erdal

Akgardal sent them to Turkmenistan with fake visas and that they were hidden in the houses of Yklymov and Jumayev and that they were paid 500 USD each monthly and they were hired and told that each of them will be given 25,000 USD upon the full execution of their crime and in the case of death of a member of the band, then the family of the dead will be given 50,000 USD”

Turkish mercenary:

I indeed joined the organized criminal band and fully acknowledge that I committed a crime. I arrived to Turkmenistan on November 7, 2002 along with Mr. Shady Chelik, Mr. Ekrem Chelik, and Mr. Omur Yokush. The reason for me to come here is because a person named Mekhmet approached me in Moscow in January, 2002 and told me that they have a good business for us, which is an assassination on the life of President of Turkmenistan and I agreed with him. Upon our arrival to Ashgabat, we were paid 500 USD each and lived in apartments belonging to Juwanch Jumayev and Yklym Yklymov located in 10th mciro residential district and in Gazha district. After that on November 24, 2002, at about 7 p.m., we were brought to the country-house of Guwanch Jumayev located in Choganly by Timur Jumayev. There, we saw number foreign citizens, who were mercenaries. After everyone gathered at the country-house, two of the organizers of this crime in Ashgabat, Guwanch Jumayev and Yklym Yklymov told us that in the morning on November 25, 2002, we should carry out an assassination on the life of President of Turkmenistan and if this criminal act will be fully executed, then the organizers of this crime - dissidents Boris Shikhmuradov, H. Orazov and Nurmukhammet Hanamov located in Russia will give 25,000 USD for each of you and in the case of death of any participant of this crime, then the family of the dead will be given 50,000 USD and also told us that after we take over the state, the TV and Radio will announce and the people will come out to the streets and the President of the state will be Boris Shikhmuradov. After that, they distributed Kalashnikov brand machine guns, rifles, pistols, camouflages and masks brought from Russia. After that, we relaxed in that country-house by drinking alcoholic beverages and smoking narcotic drugs till the early morning. In the morning, approximately at about 6 a.m., we got on two GAZEL cars and number of other cars by wearing our masks uniforms and took our machine guns and pistols and then drove to Ashgabat city and entered the city. In order to block the Turkmenbashi Shayoly street, “KamAZ” truck with the state registered number 72-91 AGA was parked nearby. After that we blocked the Turkmenbashi Shayoly street with that truck. They parked two GAZEL cars among the residential buildings located along the Turkmenbashi Shayoly Street and we were sitting in those cars with machine guns and rifles. Members of our organized group were also in BMW car parked on the pedestrian path on the side of the stadium. Jumayev Guwanch strongly ordered us that once he starts the shooting, all others will follow him by shooting. After that approximately at 07:14 - 07:15 a.m., Guwanch Jumayev jumped off his KamAZ truck along Turkmenbashi Shayoly street and started shooting at the Presidential cortege. We got off form our GAZEL cars, we, with masks on our face and dressed in camouflage also started shooting from three sides with machine guns and rifles.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned mercenary in connection with this crime, Yilmaz Mehmet Iskhan gave the following testimony. He told that Shikhmuradov gave 15,000 USD when he visited him. He confirmed that Shikhmuradov gave him 15,000 USD during his every visit to Shikhmuradov. He testified and confirmed that in the morning on November 25, 2002, when their criminal assassination attempt on the life of President of Turkmenistan failed, and because they could not fulfill their plan till the end, he escaped from the crime scene and hided in house #25 of Gokdepe street of Ashgabat belonging to his friend Serchayev Ashir. Questioned driver of GAZEL van, Almazov Beki told how the crime has happened during the course of the investigations and gave the following testimony:

Almazov Beki:

Because we usually stand at the bus stop of old airport, I arrived to the old airport and had some meal there. I was cleaning my car late at about 11 or 11:30 p.m. Two people approached me. One of them was young and another was older. They came to me and said that they would like to go to Gyzylarbat and I told them Ok and said that it would cost them 375,000 manats for 15 passengers. They agreed but they said that they have to leave at 4 a.m. in the morning. I said ok. They said they would give 350,000 manats more for that. I agreed and they gave me 50,000 manats in advance and they asked me to stay along the highway after passing the bridge that leads to the “Tolkuchka” (Sunday market) at 4 a.m. He said that he would wait for me there. I was there 3:50 a.m. I was stopped by the police post before reaching that place and they registered and then I drove to the other side of the bridge and waited for them. About 20 minutes passed 4 and it was about 4:20 a.m., he arrived and sat in the back of the van. He asked me to stop after crossing junction. Young man showed up there and started walking right to my van. The person on the back of my van asked me to pick up that person - his friend as well. While I was trying to open the door, they grabbed my neck and got me off the car and number of people gathered around me and I don't know how many people were they. There were about 5-6 people. They did not even allow me to scream, covered my eyes and then they drove to the garage. They brought me to the garage and made me to stand on my knees and then tied up my hand on back and showed me the pistol and warned me to shoot if I shout. They were speaking in Russian. I said ok. Then they closed my mouth with scotch tape and got me into the garage and told me to knock the door of the garage for three times if I wish to go to the toilet. After that I sat in the garage. For the first time, I did not make any move and then started caring about getting out of this place. The garage was quite a supplied garage with all the household tools. There were two scissors. I took scissors and used them like a knife and then released my hand. After that I detached the scotch tape on my mouth. After that I started looking outside from the holes in the door of the garage and I saw people moving around. I could not recognize all of them but I identified the ones that I recognized. After that, it seemed to me that they all gone and I started battering the wall and no one said anything. After that, I tried to open the door by using iron cutting saw and then started kicking the door. Since no one showed up, I started kicking it harder and enlarged the hole above the door and thus exited the door. After that I run to the top of the bridge. I stopped a taxi but he asked me to get off. I stopped the second taxi and immediately arrived to the Prosecutor's Office near Teke Bazaar and reported about the incident.

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

It was fully proved during the course of the investigations carried out by the investigation group that Shikhmuradov, Hanamov, Orazov, Yklymov S., Yklym Yklymov and Guwanch Jumayev organized an especially dangerous crime by creating a criminal band and leading the band and that the members of their criminal band Rozy Jumayev, Timur Jumayev, Chary Jumayev, Amanmukhammet Yklymov, Orazmammet Yklymov, mercenaries Hemrayev, Dovletov, Ilamanov, Sadullayev, Bishoyev, Nuralyev, Atanesyan, Komarovskiy, Ekrem Chelik, Shady Chelik, Omur Yokush, Mustafa Nesut Guler, Nejat Bayram, and Yilmaz Mehmet Iskhan and others committed this very grave offence.

Arms, ammunitions, walkie-talkies, camouflage uniforms, masks, cars were confiscated as criminal tools. Criminals themselves were questioned, testimonies of witnesses, the results of identification parades (face to face identification meetings) were held and material evidences were collected from the crime scene, 1 unit of hunting rifle with 12 calibers produced in Turkey, ammunitions of several 12 caliber hunting rifles, machines guns, and pistols, fired bullets and shells of machine guns and hunting rifles, finger prints in the cabin and doors of KamAZ truck were discovered and obtained. Foot prints were also obtained. Blood samples were also collected from the crime scene. The scene (place) of the crime was video-taped. During the course of the investigations, masks of the criminals were obtained and the hair of the criminals was found in the masks and special expertise was held.

According to the results of expertise, it was fully confirmed that these hairs belong to the accused people who were detained during the course of investigation. Besides, it was also proved that the finger/hand prints obtained from KamAZ trucks belong to criminal Jumayev Guwanch.

Total of 39 units of various kinds of arms were confiscated from the criminals. 11 units of AK 47 and AKM brand machine guns made in China, Egypt and Arabia, 23 units of five shoot hunting rifles produced in Turkey, 4 units of Peitra-Beretta RV MOT 70 brand pistols, 836 bullets for them, 21 units of smoking blocks, 8 units of walkie-talkies, 14 units of masks, cars, military uniforms were confiscated as material evidences.

As you can see, criminals left their guns even near the cemetery. Proceedings were instigated on this incident and total of 23 dangerous criminals, i.e. Guwanch Jumayev, Rozy Jumayev, Timur Jumayev, Chary Jumayev, Amanmukhammet Yklymov, Orazmammet Yklymov, mercenaries Hemrayev, Dovletov, Nazargulyev, Ilamanov, Sadullayev, Bishoyev, Nuralyev, Atanesyan, Komarovskiy, Ekrem Chelik, Shady Chelik, Omur Yokush, Mustafa Nesut Guler, Nejat Bayram, and Yilmaz Mehmet Iskhan were detained and taken into custody in connection with this crime. All other criminals who took part in this very serious crime will be identified, arrested and will be held liable in accordance with the law.

Terrorist Shikhmuradov, Hanamov, Orazov, Yklymov, Guwanch Jumayev and other criminals were held accountable for committing the crimes in accordance with the part 1 of Article 275 of Criminal Code of Turkmenistan (organization of the criminal association, participation in the criminal association), part 3 of Article 287 (illegal acquisition, purchasing, transportation and storage of arms and ammunitions by criminal association), part 1 of Article 176 (offence on the life of President of Turkmenistan), part 2 of Article 174 (conspiracy for the purpose of forceful takeover of the government and forceful change of Constitutional structure), part 3 of Article 271 (terrorism), part 2 of Article 14-101 (attempt on the willful homicide with aggravating circumstances) and were questioned as accused persons on these charges. Investigations are underway on this very grave offence. Investigations are underway by the established investigation commission on revealing all the participants of this dangerous criminal terror act and holding them accountable before the law.

In 1994, by occupying high position as Deputy Chairman of the Cabinet of Ministers of Turkmenistan, Shikhmuradov misused the high trust trusted upon him and conspired with the number of officials of the State Company “Rosvooruzheniye” of Russian Federation, and in particular with the director of the company Mr. Spasskiy and number of others and committed a crime which made a great harm to the Motherland and people. For the purpose of satisfying his lucrative interests, he smuggled out abroad 6 units of very expensive SU-17 military jets, number of other military equipment, 9,000 units of AKS-74 machine guns and 1.5 million units of ammunitions and sold them to foreign countries for dozens of millions of USD and thus seriously damaged the defense capacities of Turkmenistan. By being afraid to be held accountable before the justice for these committed crime, Shikhmuradov fled the country by being a coward and he did not satisfy with those actions but in addition to them, he tried to carry out an assassination attempt on the life of our dear leader and thus committed a terror act which is a great threat to the world peace at present. These acts of Shikhmuradov and his companions are strongly condemned by all the countries of the world. In accordance with the accepted international legal norms on fighting against terrorism, Office of Prosecutor General of Turkmenistan appealed to the Prosecutor General of the Russian Federation, Mr. Vladimir Vladimirovich Ustinov with fully grounded request on the detention and arrest of criminal B. Shikhmuradov. Prosecutor of the Russian Federation issued a warrant on the arrest and taking into custody of B. Shikhmuradov and federal retrieval (search) for him was circulated (announced). Currently, search for the criminal is underway.

By carrying out the policy of our dear leader on decisive fight against terrorism, there should be no place for Shikhmuradov and his companions anywhere in the world. In accordance with the international legal norms, we appeal to the law enforcement agencies of countries of the world with a request to arrest them and take them into custody as international terrorists regardless of their locations and extradite them to the law enforcement agencies of Turkmenistan in order to hold the terrorists accountable and make them serve their punishments. There will be no place for them in the world as long as our dear leader Saparmurat Turkmenbashi the Great will be in strong health. Shikhmuradov and others will be indeed held accountable before the fair justice for their heavy crimes committed before our people, country and world community and for their 30 million USD material damage to our country and will get the punishment they deserve in order to compensate for the material damages they made with their evil greediness.”

[End of the report]

4.2. General Prosecutor’s TV-broadcast report (19 December 2002)

WATAN TV NEWS

19 December 2002. Thursday. 21:00

H E A D L I N E S

Full report of the Prosecutor General of Turkmenistan about the people who were involved in the horrible evil terror acts of November 25, 2002 broadcasted via TV on Watan News Program at 21:00 on December 18, 2002.

(...)

Former teacher and rector of the Turkmen State University named after Magtumguly, Mr. Tagandurdy Hallyev was deprived of his scientific degrees and titles.

Results of the criminal acts, preliminary investigations of the crime increased the hate and anger of all people of Turkmenistan.

(...)

Subject: Full report of the Prosecutor General of Turkmenistan about the people who were involved in the horrible evil terror acts of November 25, 2002 broadcasted via TV on Watan News Program at 21:00 on December 18, 2002.

As it is known, during the meeting of the Cabinet of Ministers of Turkmenistan on December 16, 2002, by outlining that Turkmen state has nothing to hide from its people and world community, Saparmurat Turkmenbashi the Great instructed the Prosecutor General of Turkmenistan to tell the public about each participant of this heavy crime and inform public about this issue in detail on TV. By that instruction of our great leader, Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova informed the following about the results of the investigations.

In the beginning of her report, Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova praised great efforts of Saparmurat Turkmenbashi the Great for the sake of Turkmen people, who strongly condemned those who made an attempt on the life of our dear leader. Prosecutor General told that these evil acts of November 25, 2002 intended for creating chaos in the nation did not succeed and our great leader was successfully saved. After that Prosecutor General started the major part of her report.

PART ONE

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Preliminary investigations are underway on these criminal acts. Investigations are underway in full compliance with our legislation on criminal proceedings. Currently, it was undoubtedly proved that all criminal actions to be taken after the assassination attempt on the sacred life of our dear leader Saparmurat Turkmenbashi the Great were directly planned and organized by Shikhmuradov, Hanamov, Yklymov, Orazov, Jumayev and their companions. It was also undoubtedly proved that the assassination on the life of President of Turkmenistan was a beginning of subsequent criminal acts. During the course of the attack on the cortege of our dear leader by the group of terrorists, another group waited nearby the Mejlis (Parliament) of Turkmenistan and National Television of Turkmenistan in order take over these institutions. Today, all of our people and entire world community condemn these terrorist bandits who made an attempt on the carrying out *coup d'etat* (overthrowing the state) in Turkmenistan. Currently, it was undoubtedly proved these evil terror acts were lead by Shikhmuradov, Hanamov, Orazov, Jumayev and Yklymov and that they were directly involved in this. On November 24, 2002, Shikhmuradov secretly crossed into the territory of Turkmenistan from the territory of Uzbekistan. Together with other conspirators, they made a goal before themselves to bother the hearts of our people by getting rid of our leader Saparmurat Turkmenbashi the Great. Mercenaries hired and armed by Shikhmuradov on November 25, 2002 attacked the cortege of our dear President and started intense firing at the cortege. The bullets shot by the bandits avoided our dear leader Saparmurat Turkmenbashi the Great. Terrorists lead by Shikhmuradov had an objective to destabilize public-political situation, weaken the state institutions and create chaos and fear in our country. These intentions of the criminals did not succeed. Our people responded to them with hate and anger and unanimously condemned the betrayers of the Motherland like Shikhmuradov, Hanamov, Orazov, Yklymov, and Jumayev and their followers. The heavy crime that will enter the history of our country was revealed. Arrested criminals on this case confirmed that these acts of terror were committed under the leadership of Shikhmuradov but Shikhmuradov managed to escape and hide. Unfortunately, diplomatic mission of Uzbekistan and its Ambassador in our country facilitated for that. It is very hard and painful for us to tell that the representatives of the brotherly nation helped the criminals to hide from the state crime. Dear people, following circumstances were revealed by the investigation commission during the preliminary investigation of organized terror acts that took place on November 25, 2002, approximately at 7:14 a.m., along Turkmenbashi Road of Ashgabat city:

It was fully proved during the investigations that this criminal act intended for the assassination on the life of President of Turkmenistan, Saparmurat Turkmenbashi the Great, taking over the government of Turkmenistan by using force in a criminal way and forcefully changing the Constitutional structure was committed by scoundrel and an especially dangerous criminal, terrorist Boris Shikhmuradov, who previously committed very serious crime in the past and who fled abroad by betraying our Independent Permanently Neutral Turkmenistan motherland as well as by his companions Mr. Nurmukhammet Hanamov, Mr. H. Orazov, Mr. Sapar Yklymov and Mr. Guwanch Jumayev. Shikhmuradov established criminal band for this purpose, and was a main organizer and directly lead this band. For the purpose of accomplishing this very serious crime, especially dangerous criminal, terrorist Shikhmuradov arrived to Karshy city of Uzbekistan by plane on November 23, 2002 and he was brought to the telephone communications department of the city by Volvo-840 brand car with state registered number "03-21 TSS". It was proved that on the same day, at approximately 12 midnight, Shikhmuradov arrived to Turkmenistan by illegally crossing the state border in the area of Saparmurat Niyazov Etrap (District) of Lebap welayat (region). On November 12-13, 2002, criminal Jumayev Guwanch, who led the execution of this heavy crime in Turkmenistan, invited the resident of Amuderya town of Niyazov Etrap (District) of Lebap welayat, chairman of oil base of the etrap, Gayipov Dowlit to his house in Ashgabat

and informed him about the arrival of Shikhmuradov to Uzbekistan in the near future and that he will call him about the exact day of his arrival and instructed Gayipov to greet Shikhmuradov at the border together with his nephew Garatayev Murat and brother of Garatayev and then bring him to Turkmenabat city of Lebap welayat. Gayipov told about the instructions of Jumayev to the nephew of Jumayev, Garatayev Murat living in Niyazov etrap who worked as a local representative of police and his brother Garatayev Guwandyk and prepared the arrival of Shikhmuradov to Uzbekistan together with the resident of Tellimerjen town of Kashgyderya province of Uzbekistan, Safarov Honsaid Sagatovich, who worked as a secretary of Ovezov district council. On November 23, 2002 by the instruction of Guwanch Jumayev, Gayipov arrived to the house of Garatayev Guwandyk at 21:00 o'clock in the evening with Reno-19 brand car with state registered number "15-01 LBB" belonging to his organization. There, he left his car, and then he, Garatayev Murat and Garatayev Guwandyk crossed into Uzbekistan with a motorcycle with cradle belonging to Guwandyk and arrived to the house of Safarov at 22:00 o'clock. There, they left their motorcycle and by using Safarov's VAZ-2103 brand car with state registered number "10 O 9931" arrived to the building of telephone-communications station of the town located one kilometer away from that place. At approximately 23:00, Shikhmuradov was brought to this place by three Uzbek men with Volvo-840 brand car with state registered number "03-21 TSS" and transferred him to the car of Safarov with his two suits luggage. After that, Safarov together with Garatayev Murat and Garatayev Guwandyk brought Shikhmuradov to the house of Safarov. After that Safarov seated them on a specially prepared motorcycle, i.e. Garatayev Guwandyk on a driver's seat, Shikhmuradov behind him and with Gayipov and Garatayev on the cradle of the motorcycle, and thus they secretly drove through the desert secretly for about 30 km. At approximately 12:00 midnight, they crossed the state border in the outskirts of Niyazov etrap and illegally entered into Turkmenistan. There, Shikhmuradov paid 200 USD to Safarov for his service in crossing the border. After that, they arrived to the house of Guwandyk located in "Tellimerjen" peasants' association of Niyazov etrap. Gayipov transferred Shikhmuradov to his Reno-19 brand car where he left in that place and drove for about 53 km and brought him to the house#18 located in Turkmenistan Street of Amuderya town and immediately called the criminal Jumayev Guwanch in Ashgabat and informed him about the arrival of Shikhmuradov. Following that during that night, Gayipov found the senior brother of his driver, his fellow countryman Hatamov Paltaguly and boarded Shikhmuradov to his (Hatamov's) BMW-320 brand car with state registered number "E 54-76 AN". At approximately 4:30 a.m. in the morning, three of them brought Shikhmuradov to the "Dunya Bazary" market of Turkmenabat city. Members of the criminal group Orazgeldiyev Nurmukhammet, Annasakhedov Annadurdy, director of "Tamponage" Administration of Turkmeburgaz Trust located in Shatlyk town of Mary welayat, Nurgeldiyev Rejpegeldi who arrived by the instruction of criminal Jumayev Guwanch to that market place, waited in that place for terrorist Shikhmuradov with "Dodge" jeep brand car belonging to the organization of Nurgeldiyev with state registered "77-71 MRB" and transferred terrorist Shikhmuradov sitting in the BMW car to their car and made their way to Ashgabat and on November 24, 2002, at approximately 10:30 a.m., they brought Shikhmuradov to the house #8 of Yklym Yklymov located in the 2nd Tselinni passage of Ashgabat. After arriving to Ashgabat, dangerous criminal Shikhmuradov resided in the house #8 belonging to Yklym Yklymov located in the 2nd Tselinni passage of Ashgabat and directly lead this organized crime from there and instructed dangerous criminals Jumayev Guwanch and Yklym Yklym to lead the execution of the crime. Their first priority task was to physically get rid of the President, i.e. to kill the President by assassinating him with criminal methods and then secondly forcefully take over the government in Turkmenistan with arms and forcefully change the Constitutional Structure. By the instruction of terrorist Shikhmuradov, especially dangerous criminal Jumayev divided the criminal band consisting of 38 dangerous criminals into three groups: the first group consisting of 15 criminals was placed in the intersection of Turkmenbashi and Yashlar streets of Ashgabat to assassinate the President of Turkmenistan. The second group consisting of 15 criminals was placed nearby the building of Mejlis (Parliament), in front of

Mekan Palace and near the Central Bank in order to take over the Government of Turkmenistan and forcefully change the Constitutional Structure. The third group consisting of 8 criminals was placed near the building of National Television in order to take over the TV. On November 25, 2002, in the early morning, member of the criminal group, senior engineer of the Institute "Turkmensuwdesga" (Turkmen Water Facilities), Mr. Hatamov Annamurad waited along Archabil highway in his car and saw the Presidential cortege heading to the Presidential Palace, and informed Guwanch Jumayev by saying the coded phrase "I am coming to work". At approximately 7:10 a.m. in the morning on November 25, 2002, when our dear President, Saparmurat Turkmenbashi the Great was driving to his Palace by Turkmenbashi Road of Ashgabat and after he passed nearby Yashlar Street, they started trilateral shooting from machine guns and rifles and created a danger that could've resulted in human losses and thus violated the public security. However, criminals could not execute their criminal act till the end and escaped from the place of the incident. Their intentions to destroy the true legal government in Turkmenistan and forcefully take over the government by using arms did not succeed. Hostile bullets did not hit our dear President, our esteemed leader Saparmurat Turkmenbashi the Great and he was saved from the bullets of criminals. During the shooting, the bullets shot by criminals wounded 4 soldiers of State Road Traffic Control Service, namely Halmyradov, Aklyev, Achylov and Bashimov. Currently they successfully recovered and checked out from the hospital.

During the course of the investigations, it was fully clarified and proved that organizers of the criminal band, especially dangerous criminals, terrorists, Shikhmuradov, Hanamov, Orazov, Yklymov and Jumayev also wanted to execute their second task. Shikhmuradov was a main organizer and mastermind of the criminal band and distributed the duties and functions of the members of the criminal band, and determined their criminal acts and also appointed lead criminals. I told in my previous report that the main objective of the criminal band established by criminal companions of Shikhmuradov like Hanamov, Orazov, Yklymov and Jumayev was the assassination on the life of President of Turkmenistan, Saparmurat Turkmenbashi the Great, carry out *coup d'etat* in Turkmenistan and forcefully take over the Government with criminal methods. After secretly arriving to Ashgabat by violating the border, terrorist Shikhmuradov listened to the reports of the members of the criminal band Jumayev Guwanch and Yklymov Yklym on the fulfillment of his previous order and their preparedness of the execution of this crime. For the purpose of forcefully taking over the Government and forcefully changing the Constitutional Structure by assassinating President of Turkmenistan, Shikhmuradov instructed Yklymov Yklym to call his conspirator companions, ex-chairman of Mejlis (Parliament) of Turkmenistan, Mr. Tagandurdy Hallyev, Mr. Gundogdyev Yazgeldi, Mr. Berdiyev Batyr, Mr. Rakhimov Serdar, Mr. Komarovskiy Leonid, Yilmaz Mehmet Iskhan, Orazgeldiyev Nury, Durdyev Wekil, Berdiyev Orazmukhammed and spoke with each of them personally and listened to their report on their preparedness and once again determined their duties and functions and gave them precise orders with regard to the criminal actions to be taken by them. They also in their turn during their visit to Shikhmuradov reported him about their readiness for the execution of the crime. In the beginning of the year Mr. Shikhmuradov instructed Mr. Tagandurdy Hallyev to carry out works with the deputies and achieve their agreement and told he (Shikhmuradov) will head the Parliament and be the President, and hold new elections after two years and instructed him to prepare all the decrees and laws necessary for that from that moment. Mr. Hallyev in his turn fulfilled these tasks.

Mr. Shikhmuradov instructed Mr. Rakhymov Serdar and Mr. Yazmuradov Ovezmurad to take over the TV Station, take over the management and broadcast the official documents prepared by Tagandurdy Hallyev to the people and also organize the broadcasting of speech of Shikhmuradov. Mr. Shikhmuradov instructed Berdiyev Batyr (ex-Minister of Foreign Affairs) to hold talks with the foreign ambassadors and work with foreign mass media. Mr. Shikhmuradov instructed Rakhymov Serdar and Mr. Komarovskiy Leonid to

broadcast the decrees and laws via TV after they will be forcefully signed in the Mejlis (Parliament) by shooting from machine guns and rifles and instructed Mr. Gundogdyev Yazgeldi to work with the city, district and regional hakimliks (municipalities) and explain them his policies and find the support of people in the places. On November 25, 2002, at approximately 6:30 a.m., Shikhmuradov, Yklymov Yklym, Gundogdyev Yazgeldi, and Berdiyev Batyr on “Mitsubishi Pajero” brand car with state registered number “E 36-96 AG” and Jumayev Guwanch and Komarovskiy Leonid on “Mercedes-321” brand car with state registered number “61-00 AGA” drove to the building of Mejlis (Parliament) and to the Mekan Palace. Orazgeldiyev Nurmukhammet on “Mercedes-230” brand car with state registered number “A 51-47 AG”, Jumayev Timur, Jumayev Chary, Hemrayev Nepes on “Toyota Avalon” brand car with state registered number “G 76-78 AG”, Dovletov Rovshen, Hatamov Amangeldi on VAZ 2105 brand car with state registered number “A 08-05 LB”, Babayev Arslan, Novozhilov Vladislav, Reyimov Jora on VAZ 2106 car with state registered number “H 66-08 AG” with machine guns, rifles and pistols in their hand waited near the building of the Central Bank and were ready for forceful take over of Mejlis (Parliament) by hanging around in that area. During that moment, Rakhimov Serdar, Yazmuradov Ovezmurad, Annageldiyev Jumamukhammet, Boriyev Esenaman, Gurbanov Batyr, and others, total of 8 people waited in BMW brand car with state registered number “B 68-78 AG” and VAZ 2105 van with state registered number “H 49-70 AG” with machine guns rifles, pistols, and walkie-talkies in their hands waited near the building of National Television of Turkmenistan. As soon as the news about the assassination on the life of the President comes, Shikhmuradov Boris, Jumayev Guwanch and Yklymov Yklym were supposed to enter the building of the Mejlis (Parliament) with guns, take over the Mejlis and use threat and make the chairman of the Mejlis to sign the documents prepared by Tagan Hallyev and then immediately give those signed documents to Gundogdyev Yazgeldi waiting in the car there, who in turn would give those documents to armed Rakhymov, Yazmyradov, and Annageldiyev waiting near the TV studio, in order to broadcast those documents and the recorded speech of Shikhmuradov via TV. Thus, Shikhmuradov set an objective to take over the Government with arms, forcefully change the state structure and violate the Constitution, establish interim government under his leadership, be the President and Chairman of the Parliament at the same time and hold Presidential elections after 24 months and also appoint the members of his criminal band such as Hanamov, Orazov, Yklymov, Berdiyev, Gundogdyev, Hallyev to key government positions. However, after receiving the news about the failed attempt on the life of President of Turkmenistan, Saparmurat Turkmenbashi the Great on Turkmenbashi Street via walkie-talkie from Jumayev, all of the criminals standing nearby the Mejlis and TV studio escaped.

The fact that the members of the criminal band, after fulfilling the first task on the assassination on the life of President of Turkmenistan, set a second goal to forcefully take over the Government in Turkmenistan in a criminal way and forcefully change the state structure was completely proved during the investigations by the testimonies of questioned Guwanch Jumayev, Gundogdyev, B. Berdiyev, Tagandurdy Hallyev, Yilmaz Mekhmet Ihsan, O. Berdiyev, O. Yazmuradov, W. Durdyev, S. Rakhimov, N. Orazgeldiyev, Garatayev, Hatamov, Gayipov, Nurgeldiyev, Babayev, Komarovskiy, and others, as well as by the results of identification parades (face to face identification meetings), material evidences obtained on this case and other collected materials.

By telling about the tasks of this organized criminal band Jumayev Guwanch testified the following: “, I instructed everyone, after assassinating the life of the President on Turkmenbashi Street, to wait for the message via walkie-talkie or telephone call and wait for the command and told them I will also arrive myself. I also said that after I give this command, you will enter the building of the Parliament and you should not let anyone to move. Number of documents were prepared by Tagandurdy Hallyev on appointing Shikhmuradov as a President and head of the government and holding Presidential elections

after 2 years. Shikhmuradov, I (Jumayev Guwanch), and Yklymov were supposed to immediately enter the cabinet of Chairman of the Parliament with arms and make him to sign the documents and Gundogdyev was supposed to bring the documents to TV immediately, where Rakhymov Serdar, Komarovskiy Leonid, Yazmyradov Ovezmurad, Annageldiyev Jumamukhammet and other guys waited with guns. They were supposed to let the public know via TV that we forcefully took over the Government, that we change the constitutional structure and broadcast the contents of decree signed by the chairman of Mejlis that we appointed Shikhmuradov as a new President of Turkmenistan and broadcast the recorded speech of Shikhmuradov. After that, we were supposed to hold a meeting by gathering deputies and representatives of public organizations and the issues of appointment of Hanamov, Orazov, Hallyev, Gundogdyev to the key government positions and appointment of Berdiyev as a Vice President were supposed to be considered during those meetings. If we took over the Government and forcefully changed Constitutional Structure, then Shikhmuradov, Hanamov, Orazov, Yklymov will give big amounts of money to the mercenaries, and give positions to Hatamov, Rakhymov Serdar, Orazgeldiyev Nury, Yazmyradov Ovezmurad and to number of other people. Each participant of the crime were supposed to get 25,000 USD and in the case of loss of life, then the family of the deceased will be given 50,000 USD.

Orazgeldiyev Nurmukhammet who was questioned during the investigation, testified in his testimony that he has close relations with Shikhmuradov since 1996 and that he continuously met with him in Russian Federation, regularly communicated with him over the phone, that under his (Shikhmuradov's) leadership he conspired with Hanamov, Orazov, Yklymov, Jumayev, Hallyev and others in order to carry out the assassination on the life of President of Turkmenistan, Saparmurat Turkmenbashi the Great, forcefully take over the Government in a criminal way and forcefully change the Constitutional Structure. He also testified that by fulfilling the order of Shikhmuradov, he together with Yklymov, Yilmaz Mekhmet Ihsan brought the arms into Turkmenistan in a contraband way purchased and sent by him (Shikhmuradov) and hired the mercenaries.

Jumayev Guwanch testified that he was in a criminal relationship with the Ambassador of Uzbekistan in Turkmenistan, Mr. Abdyreshit Kadyrov and after solving the issues by talking to him, and he together with his friends Annasakhedov Annadurdy, and Nurgeldiyev Rejeglildi greeted the terrorist Shikhmuradov coming to Turkmenistan to carry out *coup d'etat* in Turkmenistan, at approximately 4:30 a.m. in the morning, near "Dunya Bazary" market of Turkmenabat city on November 23, 2002. and brought Shikhmuradov from that place to the house #8 of Yklym Yklymov located in the 2nd Tselinniy passage of Ashgabat with "Dodge" jeep brand car with state registered "77-71 MRB" belonging to the place of employment of Nurgeldiyev – "Tamponage" administration. Guwanch Jumayev brought Tagandurdy Hallyev first to that place by the instruction of Shikhmuradov. For the purpose of assassinating the life of President of Turkmenistan, forcefully taking over the Government by using arms, forcefully changing the Constitutional Structure, he himself together with terrorist criminals Shikhmuradov, Yklymov, Jumayev, Berdiyev, Gundogdyev and others on 06:30 a.m. on November 25, 2002, were ready for takeover of the government with arms. He fully testified and acknowledged that he participated in this serious crime by standing near the Mejlis, and because of failure of the crime, he hid Shikhmuradov. After the incident, active participant of the crime Shikhmuradov together with Berdiyev, Gundogdyev, Jumayev and Yklymov hid in the house of criminal Jumayev Rustem located in the second passage of Petrozavodsk Street of Ashgabat near the old airport. They were angry because of their failed attempt and Jumayev Guwanch together with Ambassador Kadyrov who were in conspiracy before, they brought Shikhmuradov to the residence of Ambassador of Republic of Uzbekistan, Mr. Kadyrov Abdyreshit with "Toyota Pajero" car with darkened windows with state registered number "18 SD 002" on November 26, 2002 at approximately 19:30. In that residence, Ambassador hid Shikhmuradov and Orazgeldiyev

in one of the rooms on the second floor of his house till December 7, 2002. On December 7, 2002, Shikhmuradov and Kadyrov consulted with each other and instructed Orazgeldiyev to find the way out from the area of the residence and area of Turkmenistan, find necessary people for that and inform the Ambassador in writing and not to call him. Ambassador Kadyrov strongly instructed that the written note should be passed to him through his employee Abdylla, who in his turn will pass the note to him. After that Ambassador Kadyrov dropped off Orazgeldiyev on the northern side of the hotels in Berzenghi town with his black jeep. Between December 7, 2002 and December 12, 2002, Orazgeldiyev visited number of places but nobody took a responsibility to hide Shikhmuradov and get him out of the state. That's why on December 13, 2002, in the afternoon, Orazgeldiyev visited the Embassy of Uzbekistan and passed the relevant written note to Abdylla and instructed him to pass that note to Ambassador. Orazgeldiyev testified that on December 14, 2002, he himself together with his friend dressed into women's dress and looked for the way to escape to Mary city with taxi and went there and was arrested in the Automobile Station of Mary city.

Orazgeldiyev Nurmukhammet:

I participated in the heavy crime on the assassination on the life of President of Turkmenistan. I very much regret for taking part in this very grave offense committed by the instruction of Boris Shikhmuradov, Hanamov, Orazov, and Yklymov from abroad. On the night from November 23 to November 24, 2002, I brought Boris Shikhmuradov to Ashgabat from Turkmenabat city with my friend Rejep Nurgeldiyev and his car with the participation of Annadurdy Annashkedov. On November 25, 2002, in the morning, because of failure of this horrible event, I took Boris Shikhmuradov to the apartment of my friend, Rustem Jumayev living nearby old airport in Petrozavodsk Street. We stayed in that apartment on November 26, 2002 till 19:30 in the evening and as a result of talks of Boris Shikhmuradov with the Ambassador of Uzbekistan in Turkmenistan, Mr. Kadyrov, we left that apartment at 19:30 and drove through Turkmenbashi Road and turned left near the school #12 and got off the car in the street behind the Embassy of Russian Federation and got on one black jeep car. That jeep car belonged to the Embassy of Uzbekistan and with that car we went to the residence of Embassy of Uzbekistan in Turkmenistan located in Berzenghi town. Ambassador of Uzbekistan in Turkmenistan, Mr. Kadyrov Rashid gave one of his rooms on the second floor of his house. His wife, a son and a daughter saw our arrival and we were hidden from other people living in the residence including the security guards. I stayed in that residence till 7 December, 2002. Because the Ambassador told us that it is dangerous to live there and after that I was taken out of the Embassy residential compound with another black jeep car and they dropped me behind one of the hotel complexes in Berzenghi. Ambassador's wife's name is Olya, his son's name is Samad and his daughter's name is Ayya and I don't know what her real name is. Thus, I arrived to Ashgabat and my main duty was to take out Boris Shikhmuradov from the Embassy residence to some apartment but the situation in Ashgabat was not as we expected. I realized that all of my friends and even the telephone numbers I dialed, addresses were under surveillance and therefore, I lived by hiding from one place to another and on December 13, 2002, as we agreed before, I handed a letter to the Embassy of Uzbekistan, in which I warned Boris Shikhmuradov that it is impossible now to get out to Ashgabat and wrote him that I don't what's going to happen with me and where I will be. When I came to the Embassy of Uzbekistan, a guy was hanging around inside the Embassy. At 16:00, I made my way to the micro-district #5 and around 11 o'clock, I handed that guy a letter and instructed him to pass that letter to the employee called Abdylla and he will know what to do with it. I asked the taxi to wait for me instead of leaving and then immediately run back to the taxi. After that my situation in Ashgabat got even worst and I had an intention to go to Lebap welayat and hide there. I was very worried and even dialed three digits out of six digit telephone number of the Ministry of National Security but I stopped. It seemed like that Satan stopped me from doing that. Thus, I arrived to Mary city and I was arrested there when I tried to go to Turkmenabat city from Mary. The bus station was under heavy control when I got off the car and because of long women's coat on me, eyeglass and scarf on my shoulders,

they noticed that I don't really look like a woman and I was arrested right after I got off the car.”

[End of Part One]

PART TWO

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Criminal Jumayev Guwanch who was questioned additionally during the course of the investigations testified that he in fact lead the execution of the crime by the instruction of Mr. Shikhmuradov. In the night from November 24 to November 25, 2002, he divided the mercenaries into three groups in his country-house and determined the tasks of each of them and told them where the cars should be parked and sent them to Mejlis and TV Studio. Right after the first group will commit an assassination on the life of the President and the first task will be accomplished, then the rest should wait for the command and only after that the second group should enter the building of Mejlis and force its Chairman to sign the documents prepared by Shikhmuradov and Tagandurdy Hallyev prior to that. The third group was supposed to take these documents and also the diskette with the speech of Shikhmuradov and bring them to TV in order to broadcast them. However, because of the failure of the first task on killing the President of Turkmenistan, the second task also could not be executed, which final objective was armed take over of the Government and changing the constitutional structure of Turkmenistan. Jumayev had to inform waiting armed criminals by walkie-talkie and telephone that the operation has failed and now they should disband.

Tagandurdy Hallyev has testified that during his chairmanship over the Mejlis (Parliament) of Turkmenistan, he maintained contacts with B. Shikhmuradov through Nury Orazgeldiyev. Hallyev himself informed Shikhmuradov that the President will release him from his position as a Chairman of Mejlis (Parliament) of Turkmenistan on November 10, 2002 and asked to carry out *coup d'etat* as soon as possible, so that he could himself sign all the official documents while chairing the Parliament and took a responsibility to transfer deputies to his side.

Mr. Jumayev also testified that in conspiracy with the plenipotentiary Ambassador of Uzbekistan in Turkmenistan, Mr. Abdurashid Kadyrov and with his direct assistance, Shikhmuradov arrived to the Uzbek city of Karshy and then illegally crossed the border of Turkmenistan. He also testified that Kadyrov hid Shikhmuradov and Orazgeldiyev in one of the rooms of his residence.

In his testimony, questioned Yazgeldi Gundogdyev testified that on 24 November, 2002 at approximately 13:00, former Minister of Foreign Affairs of Turkmenistan, Mr. Batyr Berdiyev together with Yklym Yklymov arrived to the house #8 belonging to Yklym Yklymov located in the 2nd Tselinniy passage of Ashgabat in Mitsubishi Pajero car, where Shikhmuradov required them to report on the *coup d'etat* (overthrowing of the state). Gundogdyev informed that Shikhmuradov prepared for the assassination on the life of President of Turkmenistan, carrying out *coup d'etat*, and changing the Constitutional Structure of the country for a year and that together with Hallyev, they prepared all the necessary documents and intended to establish interim government, become President and head of the government and appoint his criminal companions Hanamov, Orazov, Yklymov, Jumayev and Berdiyev as members of the government. On the same day, Shikhmuradov was in that building for the whole night and listened to the reports of ex-chairman of Mejlis (Parliament) of Turkmenistan, Mr. Tagan Hallyev, Guwanch Jumayev, Komarovskiy Leonid, Yilmaz Mekhmet Ihsan, Serdar Rakhymov, Durdyev Wekil, Berdiyev Orazmukhammet and gave precise instructions with regard to the execution of the crime. At 06:15 a.m. in the morning, he himself, Shikhmuradov, Berdiyev and Yklymov, four of them got on the car of Yklym Yklymov “Mitsubishi Pajero” with state registered number E 36-96 AG and then went

to the building of Mejlis. There, Shikhmuradov changed the cars and got on the black Mercedes of G. Jumayev and S. Rakhymov got on to one of the waiting cars in order to go to TV Studio. Gundogdyev with his companions walked nearby the Mejlis by waiting for the order. At approximately 07:20, Jumayev Guwanch called Yklymov Yklym and ordered to disband and then four of them again sat on the car of Yklym Yklymov and then went to the apartment of Jumayev Rustem in the area of old airport. When he left that place, Shikhmuradov, Berdiyev and Yklymov remained in the apartment.

Shikhmuradov instructed Guwanch Jumayev to lead the execution of this very dangerous crime and asked him to wait for him near the Mejlis with Berdiyev and others and instructed Tagan Hallyev to write the texts of all orders on the appointment of Shikhmuradov as a President and Chairman of Mejlis and draw over the deputies to his side. Shikhmuradov instructed Berdiyev Batyr to hold talks with the foreign ambassadors and instructed Serdar Rakhymov and Leonid Komarovskiy to take over the TV with their people and broadcast the signed documents and speech of main organizer of this very serious crime, Shikhmuradov. Gundogdyev told and confirmed that Shikhmuradov assigned the execution of this crime in the territory of Turkmenistan to Guwanch Jumayev and Yklym Yklymov and that by his instruction, one group of criminals was assigned to kill the President of Turkmenistan on November 25, 2002 in the morning and another group was instructed to enter the building of Mejlis (Parliament) and forcefully take over parliament and change the Constitutional structure and that this crime was organized by him, Shikhmuradov, Hanamov, Orazov, Sapar Yklymov, Yklym Yklymov and Guwanch Jumayev and that Shikhmuradov directly lead this criminal group. He also told and confirmed that by the order of terrorist Shikhmuradov, Guwanch Jumayev had a criminal conspiracy and criminal ties with Uzbek Ambassador Kadyrov and talked with him on bringing the terrorist Shikhmuradov to Turkmenistan via Uzbekistan by violating the border and hide him in his residence.”

Yazgeldi Gundogdyev:

On November 25, 2002 in the morning at 7 a.m. after those tragic events happened, Shikhmuradov was in the car of Guwanch Jumayev and did not enter the parliament building. I was in the car of Yklymov Yklym with Batyr Berdiyev and we were supposed to wait outside the parliament and we did wait outside the parliament and Guwanch Jumayev waited elsewhere while we waited near Kurgozor. Guwanch Jumayev, at around 07:15, 07:20 a.m. in the morning on November 25, 2002, called Yklym Yklymov and urgently told him that we should go back. Yklymov Yklym took us and started driving his car and in less than three minutes, Guwanch Jumayev called once again and told him with worry to take Shikhmuradov to his car. Yklymov in his turn asked where to go and where to pick him up. They told him to go to the 1st polyclinic or maternity hospital. Guwanch Jumayev brought Shikhmuradov and transferred him to our car. After that Yklymov Yklym started driving his car with me, Batyr Berdiyev, and Shikhmuradov and did not know where to go and started shouting at each other on where to go. Shikhmuradov shouted them that he does not know where to go either and told some bad words to the address of Guwanch Jumayev and told this failed attempt was due to the fault of Guwanch Jumayev and the main reason for him to come was that Guwanch Jumayev assured him that everything is ready and said that Guwanch did not only betray me but also betrayed Turks as well. Shikhmuradov said that he would not have come here if Guwanch Jumayev told him not to come. Shikhmuradov was speaking by himself. Thus, Yklymov called Nury Orazgeldiyev. Nury Orazgeldiyev instructed Yklymov to drive his car to the area of old airport and they could not find other apartment elsewhere. I, Shikhmuradov and Batyr Berdiyev came to the small two room apartment near the old airport. Shikhmuradov entered the apartment and told Yklymov to get away and instructed him to leave because the cars and telephones used also belong to him and told him that he is probably already being searched and told him not to appear here anymore. Thus Yklymov left the place and went back. Only Nury Orazgeldiyev and Shikhmuradov remained in that apartment. By entering the apartment, he started speaking by himself by telling that he became ashamed and that he

could not fulfill the trust of people who supported him and how he will appear before people now. He once again mentioned that Guwanch messed up everything and he would not have come to Turkmenistan if Guwanch told him that things are not yet ready. He said that Guwanch assured him by telling that everything and people are ready and told him that only his presence here was necessary. Shikhmuradov told that Yklymov Yklym is probably arrested by now and Guwanch Jumayev will also be soon arrested because the people, who are probably already arrested belong to him and told that only Nury Orazgeldiyev was left with him and that he does not have any support or anyone to rely on except for Nury Orazgeldiyev. He also told that this apartment belonged to Rustem Jumayev, who is probably already being searched because of his friendship with him and told Nury Orazgeldiyev that they should get out of this building as soon as possible. Nury Orazgeldiyev in his turn told Shikhmuradov that he does not have yet any idea where to go and how to go. Nury Orazgeldiyev was in fact in a big panic. He then told that if Guwanch was not arrested, then he could've visited Rashid (Abdyrashid) and talk with Abdyrashid to help him to return back. Rashid or Abyrashid is an Extraordinary and Plenipotentiary Ambassador of Republic of Uzbekistan in Turkmenistan. He did not tell his last name and I don't know his last name either. By listening to the self-talk of Shikhmuradov, I was surprised and asked him whether he (Ambassador) is informed about that and this is the question I asked, which can be proved by the witnesses. He told me "what are you talking about? Everything was organized by Guwanch and Abdyrashid" and praised him by saying "well-done". He said that Guwanch talked with Abdyrashid and these are the things done by Guwanch. He said that if he could find a person to visit the Ambassador of Uzbekistan in Turkmenistan and tell him the situation, then he could've stayed at his residency for a few days but said that this could be dangerous as well because if it is discovered, then he (Ambassador) would be leveled with earth. He then started talking by himself again. He said that he is even a bit ashamed to ask Rashid for a favor because he said that he could not fulfill their confidence as well."

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned Batyr Berdiyev (former Minister of Foreign Affairs) testified that on November 24, 2002 at approximately 14:00 o'clock, when he came to the house of Yklymov Yklym with Yazgeldi Gundogdyev, he saw that Shikhmuradov was there who came here to organize the assassination on the life of President of Turkmenistan, Saparmurat Niyazov and take over the government and establish new government and be the President of the country and Chairman of Mejlis for two years and then hold the elections and appoint the participants of *coup d'etat* Hanamov, Orazov, Jumayev, Yklymov, Hallyev, and Gundogdyev to key government positions and that he himself was assigned to hold talks with the foreign ambassadors in Turkmenistan and foreign mass media and Gundogdyev was assigned to work with the hakims (governors) of welayats (regions) and that Shikhmuradov promised him to appoint him as member of the Government."

Batyr Berdiyev:

Yes, I indeed participated in the organized criminal band and carried out heavy crime, for which there is no justification. Organizers of this group were former Deputy Chairman of Cabinet of Ministers of Turkmenistan, Boris Shikhmuradov, Hanamov Nurmukhammet, H. Orazov and Yklymov Sapar who lead this group from abroad. Shikhmuradov directly assigned Yklymov Yklym and Guwanch Jumayev to prepare the crime in the territory of Turkmenistan. As I figured out, citizen of another country, Mehmet Yildiz was supposed to gather certain number of mercenaries, obtain the camouflage forms, masks, ammunitions and walkie-talkies to be sent to him by Boris Shikhmuradov for the preparation of the assassination attempt on the life of President of Turkmenistan. They did this for remuneration. I was involved in the preparation of the crime directly in November, 2002 when Yklym Yklymov invited me to his house at the 2nd Tselinniy passage prior to the assassination. When we came to this house, we entered it with cautiousness, so that no one could notice us from side. Yklymov Yklym asked us to wait in the car until he will lock his car in garage.

When we entered the house, we saw Boris Shikmuradov. He grew up beard and the people who would know him will notice him even with beard. In this house, various meetings took place on the night from November 24 to November 25, 2002 and the details of the upcoming crime were agreed. As I said, the assassination itself was supposed to be carried out by foreign citizen together with mercenaries, by some sort of Mekhmet Yildiz who also came to this house. I and Gundogdyev did not know the details of the upcoming crime by then. At the same, other meetings took place in this house and ex-chairman of Mejlis (Parliament) of Turkmenistan, Tagan Hallyev was brought to this house in the evening and Shikmuradov directly spoke with him on how to best legalize the new governing body which he called as "Interim Executive Council". Former Chairman of State TV and Radio Company of Turkmenistan, Serdar Rakhymov also came there. Shikmuradov spoke with him about the take-over of the TV and live broadcasting after *coup d'etat*. Within various small time intervals, former officers of the Committee on National Security also visited this house such as Wekil Durdyev and Berdiyev Oraz. Their task was to establish the co-operation with former high officials of law enforcement Ministries, so that these officials could enter the building of Ministry of National Security, Ministry of Defense, and Ministry of Internal Affairs right after the *coup d'etat* and prevent the counter reaction of these Ministries to the *coup d'etat* and make them eager for co-operation. As I heard, among the people with whom Berdiyev Oraz and Durdyev Wekil preliminarily spoke about such co-operation was the Former Chairman of Frontier Forces of Turkmenistan, Mr. Kabulov and former chairman of the Committee on National Security, Mr. Seyidov. Role of Gundogdyev in this crime after the *coup d'etat* was to carry out works with the administrations of welayats (regions) and provide their loyalty and continue their work. In this regard, various candidacies were discussed. It was proposed to immediately dismiss the hakims (governors) of Akhal, Mary, and Dashoguz welayats (regions). My role after the *coup d'etat* was to carry out talks with the embassies of foreign countries accredited in Turkmenistan and first of all with the embassies of western countries. The purpose of the talks was to achieve the recognition of new government of Turkmenistan by foreign countries. I was also assigned to carry out the analysis of international information and prepare relevant information for foreign mass media. We stayed in the house, where Yklym Yklymov brought us till next morning on November 25, 2002 and approximately at about 06:20 a.m., we left that place with the jeep of Yklym Yklymov and Yklymov himself drove the car and I, Gundogdyev and Shikmuradov were in the car. On the way to the building of Mejlis, we picked up Serdar Rakhimov near Grand Turkmen Hotel, who waited for us there. All together, we came to the bystreet coming from the Magumtguly Avenue to the lateral part of the building of Mejlis and waited there. Shikmuradov got out of Jeep and transferred to the black Mercedes, where Guwanch Jumayev was sitting in the driver's seat. Guwanch Jumayev was supposed to receive signal as they described "the first stage has passed". As I figured out this "first stage" was the assassination on the life of President of Turkmenistan. After that signal, Shikmuradov was supposed to approach the building of Mejlis and we were supposed to follow him. We waited in this bystreet for about 15-20 minutes and only then the Mercedes carrying Guwanch Jumayev and Shikmuradov moved and we followed them but due to unclear reasons at that moment, Mercedes did not come to the building of Mejlis but stayed nearby and we stopped there as well and after that the car carrying us made two circles around Mejlis (Parliament) and only then we heard via small walkie-talkies that everything has failed and that we should immediately leave. We started leaving that place and on the way, we made a warning call from the mobile phone of Yklym Yklymov to Serdar Rakhymov and Wekil Durdyev. From the building of Mejlis, we moved on the direction of the house located on Tselinni passage".

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova :

Batyr Berdiyev informed and testified that Shikmuradov secretly hid in the house belonging to Rustem Jumayev near the old airport and then in the residence of Ambassador of Uzbekistan in Turkmenistan.

Questioned Annasakhedov Annadurdy in his testimonies confirmed that by the instruction of Shikhmuradov and Jumayev, he took part in the terror act of November 25, 2002. In particular, he testified that on November 21, 2002, he came to the house of his friend Nurmukhammet Orazgeldiyev who told him "By the order of Jumayev Guwanch, we will go to Turkmenabat city on November 23, 2002 and bring Shikhmuradov to Ashgabat". He told that they went to Mary by hiring a taxi in the morning on November 23, 2002, where they boarded to the service car "Jeep" with state registered number "77-71 MRB" of Rejpegeldi Nurgeldiyev working as a chairman Shatlyk Administration "Tamponage". Annasakhedov Annadurdy testified and confirmed that at approximately 14:00 o'clock, three of them came to Turkmenabat city and parked nearby the "Dunya Bazary" market and on November 24, 2002 at approximately 04:30 a.m. in the morning, dark BMW car has arrived to that place and terrorist Shikhmuradov got off that car and then got on their car and after that they made their way back to Ashgabat and approximately at 10:30 a.m., they came to Ashgabat, where Shikhmuradov together with Orazgeldiyev stayed in the house of Yklymov on Tselinniy Passage."

Annasakhedov Annadurdy:

When we reached the police post, employees of the state road traffic control service stopped us and I got out of my car and showed them my document and told them that I am from the Committee on National Security and then they let me go. First they took my certificate and walked little bit and turned back and asked whether the people sitting in the car are from us too. I told them yes. Then they let us go."

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned Hatamov Annamurad, in his testimony confirmed that by the invitation of his close friend, Jumayev Guwanch, on November 24, 2002, he went to the country house of Jumayev Guwanch in Choganly with his "VAZ 2106" car with state registered number "B 96-74 AG" by taking his junior brother Amangledi who was hired for money and his friend Atamyrad Garayev. Here they met with Guwanch Jumayev, who told them that the assassination on the life of President will take place and gave them walkie-talkie and instructed to stand on the route of the President in the intersection of Garashsyzlyk and Archabil roads between 6 a.m. and 7 a.m. on November 25, 2002 and as soon as the cortege will pass nearby, to inform them by walkie-talkie by saying "I am coming to work".

Hatamov Annamurad:

On November 25, 2002, between 6 a.m. and 7 a.m., I was supposed to stand on the route of the President in the intersection of Garashsyzlyk and Archabil roads and once I see the Presidential cortege passing by and I was supposed to inform by walkie-talkie by saying "I am coming to work". Once I got that assignment, I returned back to my house at 1 a.m. (on November 25, 2002) and slept. On November 25, 2002, at 6 a.m., I woke up and went to the said place with my car alone and stood nearby the in the intersection of Garashsyzlyk and Archabil roads at 6:15 a.m. There were two officers of State Road Traffic Control Service in the intersection of Garashsyzlyk and Archabil roads. As I remember at 07:05 a.m., Presidential cortege consisting of 7 cars with two Mercedes cars with serene on the top in the front followed by the Presidential Mercedes, which were followed by four other cars. Once I saw, I informed them as agreed by walkie-talkie by saying "I am coming to work". So, whoever had walkie-talkie should have heard me. Our criminal intentions on that day did not succeed and on the same day after 20:00 o'clock when I was coming from work, I threw my walkie-talkie to the Garagum Channel passing nearby the Shor town."

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned Leonid Komarovskiy in his testimony informed that he knows Shikhmuradov since 1996 and that he was in the house of Guwanch Jumayev on November 23-24, 2002, in his country-house in Choganly and that he took part in the *coup d'etat* and

that in evening of November 24, 2002, he went to the house of Yklymov Yklym with Jumayev Guwanch located in the 2nd Tselinni passage of Ashgabat, where Shikhmuradov secretly hid and met with him. Shikhmuradov asked him to help to organize the public broadcasting of criminal documents prepared by Tagan Hallyev such as “decrees”, “laws” and other “documents” via TV.”

Leonid Komarovskiy:

I, Komarovskiy, happened to be near the criminal intention of Boris Shikhmuradov, Guwanch Jumayev and other members of their opposition which committed crime on November 25, 2002 in the form of conspiracy for the purpose of taking over the government and appeal for the forceful change of Constitutional structure and assassination on the life of President of Turkmenistan. I acknowledge my guilt before the President of Turkmenistan and deeply regret for my actions. In order to wash my sin, I am ready to help as much as possible for the prosecution of the organizers of this crime. Therefore, I am asking the President of Turkmenistan, highly esteemed Saparmurat Turkmenbashi to pardon me for acquiring satellite telephone for Boris Shikhmuradov, which was further used without my knowledge and consent for criminal actions. Because of my gullibility and lack of knowledge on the real situation, I happened to be near the Mejlis, where the measures on taking over the Government were supposed to take place among the persons which organized the takeover of the government and accomplished the appeal for forceful change of the Constitutional structure and assassination on the life of the President. I am very happy that their intentions did not succeed and the President was not hurt. I would like to ask once again to pardon me for my actions. I admire you highly esteemed Saparmurat Turkmenbashi, President of Turkmenistan for your continuous policy for the sake of Turkmenistan and wellbeing of Turkmen people. You relentless care for the wellbeing of Turkmen people is known to the entire world today and the people like Boris Shikhmuradov, who encroached the most sacred thing should be punished. I am ready to do whatever I can so that it will happen as soon as possible and I am ready to confirm the organization of this criminal intention by Boris Shikhmuradov as a witness wherever necessary. Dear Mr. President, you are father to older children and grandchildren and I also have three children and one grandchild and you as a father of big family and as a father of nation indeed understand the sufferings of my family, which also look forward for your mercy towards me. I would like to ask to pardon me once again and trust my life to you by hoping for your mercy. I can assure you that you will always find a faithful and dedicated person in me for Turkmenistan and you. I will do as much as I can, so that the entire world would know about gigantic changes in Turkmenistan accomplished under your leadership and with your name. Pardon me for that I did not know how the contacts with such an irresponsible scoundrel as Boris Shikhmuradov may end up. Pardon me. Please pardon me.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Mercenary criminal, resident of Tellemerjen village of Karshy city of Uzbekistan, Honsaid Sagatovich Safarov in his testimonies fully acknowledged that on November 23, 2002, approximately at 23:00 o'clock together with Dovlet Gayipov and Murad Garatayev in his “VAZ 2103” car came to building of telephone communications station located one kilometer away from that village and well dressed three Uzbek men with white shirts and ties got out of Volvo-840 brand car with state registered number “03-21 TŞS” that was standing there with Shikhmuradov and transferred him to their car. Safarov testified and confirmed that he brought Shikhmuradov, Garatayev and Gaipov to his house and then seated them on a specially prepared motorcycle “Ural” and that Garatayev Guwandyk was on a driver’s seat, Shikhmuradov was behind him and Gayipov and Garatayev were on the cradle of the motorcycle and then he showed them the way and helped them to cross the border and after crossing the border Shikhmuradov paid him 200 USD for his service in crossing the border and also confirmed that he was hired.”

Honsaid Sagatovich Safarov:

On the night from November 23 to November 24, 2002, by the request of police officer Garatayev Myrat, Boris Shikhmuradov came out of black foreign made car with police number in the town of Myshan etrap Kashgyderya welayat of Uzbekistan and we seated him in VAZ 2103 car and brought him to my place of residence. After that together with Gayipov Dovlet. Garatayev and I seated them to the motorcycle of police officer Garatev Murat and then they made their way to S.A. Niyazov etrap of Turkmenistan. I was given 200 USD for this. I did not know who is Boris Shikhmuradov and I committed this crime with without knowledge for which I regret.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned Dovlet Gayipov in his testimonies told that on 12-13 November, 2002, Jumayev Guwanch, who was assigned to carry out and lead planned crime in Turkmenistan, invited him to his house. Gayipov confirms that Jumayev gave him the instruction by saying: “Shikhmuradov will come to Turkmenistan from Uzbekistan in the near future. Together with my nephew Garatayev Murat and his brother Garatayev Guwandyk, it is necessary to meet him at the border and bring him to Turkmenabat city. I will call you about the day of arrival”. After that Gayipov met with the relative of Jumayev Guwanch living in Niyazov etrap and his brother Garatayev Guwandyk and told them about the instructions of Jumayev and agreed with the resident of Tellemerjen village of Karshy city of Uzbekistan, Honsaid Sagatovich Safarov (Seyitjan) and prepared them to meet Shikhmuradov. Gayipov also told that in the evening on November 23, 2002, he, Garatayev Murat and Garatayev Guwandyk arrived to the house of Honsaid Safarov at approximately 23:00 o'clock with motorcycle “Ural”. There, they left their motorcycle and with Safarov’s VAZ-2103 car went to the building of telephone-communications station located one kilometer away from that place. Together with Shikhmuradov, well dressed three Uzbek men with white shirts and ties got out of Volvo-840 brand car with state registered number “03-21 TŞS” that was standing there. Shikhmuradov moved to their car, where two sacks of luggage wdere also loaded and then went to the house of Safarov, where they reseated on a specially prepared motorcycle with Garatayev Guwandyk on a driver’s seat, terrorist Shikhmuradov behind him and Gayipov with Garatayev seated on the cradle of the motorcycle. By driving through the desert for about 30 km, they crossed the Turkmen-Uzbek border in the area of S.A. Niyazov etrap. Gaipov confirmed that Shikhmuradov paid 200 USD to Safarov for his service in crossing the border. Gaipov also testified that by arriving to the house of Guwandyk, he transferred criminal Shikhmuradov to his service car Reno-19 brand car with state registered number “15-01 LBB” and after driving for about 53 km and brought him to his house#18 located in Turkmenistan Street of Amuderya town. After that Gayipov immediately called the criminal Jumayev Guwanch in Ashgabat and informed him about the arrival of Shikhmuradov”.

Dovlet Gayipov:

We arrived to Tellimerjen peasants' association by taking Boris Shikhmuradov with us to the house of mother of Murat Garatayev and then got on my car and after that went to my house located in Amuderya town of Niyazov etrap and because my car was not well, I asked my fellow countryman Hatamov to come with his car and then got on to his (Hatamov’s) BMW-320 brand car with state registered number “E 54-76 AN” and then arrived to Turkmenabat at “Dunya Bazary” place of Turkmenabat city and from there we made our way to Ashgabat with Boris Shikhmuradov with white metallic color jeep with the number of Mary city with state registered number “77-71 MRB”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Gayipov confirmed that by arriving to Ashgabat, he himself came to the country house of Jumayev located in Choganly at 21:00 on November 24, 2002. Questioned Nurgeldiyev Rejpegeldi in his testimonies confirmed that his friend Orazgeldiyev Nurmukhammet, who previously worked in the national security institutions came to his

house with someone at 17:30 and offered him to go Turkmenabat city. On that day, with his “Jeep” car with the state registered number “77-71 MRB”, three of them went to Turkmenabat city, and waited for a while near “Dunya Bazary” market and dark BMW car approached them at 04:30. Nurgeldiyev and these two took the person with black beard and moustache who came out of this BMW to their car and realized that this person was Shikhmuradov on their way back and at approximately 10:30 a.m., they arrived to Ashgabat.

Questioned Tagandurdy Hallyev in his testimonies confirmed that at 21:00 on November 24, 2002, together with Nurmukhammed Orazgeldiyev, he came to the house of Yklym Yklymov located on the 2nd Tselinniy passage and talked with Shikhmuradov. He also testified that he previously prepared the decrees and laws on the appointment of Shikhmuradov as a Chairman of Mejlis, President and also testified that Shikhmuradov organized and lead this especially dangerous crime associated with the assassination on the life of President of Turkmenistan for the purpose of forceful criminal take over of the Government and forceful change of the Constitutional structure. Hallyev told that he did not tell anyone and any organization about his meeting with Shikhmuradov.”

Tagandurdy Hallyev:

I and Shikhmuradov greeted each other. There was couple of people with him. One of them was the former Minister of Foreign Affairs, Batyr Berdiyev and I don’t know the other person. Shikhmuradov told me and that he came and that they started the revolution. He asked me how the Constitution is. I told him that the Constitution is a good Constitution, democratic constitution. They asked me how is Mejlis. I told them that Mejlis is good and recently 8 new deputies were elected and till now we are accomplishing the tasks set by the Elder (Saparmurat Turkmenbashi the Great). After that they discussed their plans among each other, what they will do, where they will do it. I don’t know other things except for their general words that they spoke. After that, I told Shikhmuradov that I am leaving if he has no other questions. The next morning, I heard that shooting took place and the assassination attempt on the life of the Elder (Saparmurat Turkmenbashi the Great) was carried out. Even after these people were arrested, I did not tell anything to anyone.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Other questioned criminals Berdiyev Orazmukhammet, Wekil Durdyev, Rovshen Dovletov, Nepes Hemrayev, Arslan Babayev and others in their testimonies confirmed that the orders about their actions were given by the organizers and leaders of this very dangerous crime, Boris Shikhmuradov, Yklym Yklymov and Guwanch Jumayev”.

Serdar Rakhymov:

He addressed me and said: “you Serdar worked at TV before. You have experience and you know the TV employees and therefore, we need your help”. I asked how they will come to the leadership of the country. He answered me that they will do that by the decree of Mejlis (Parliament). By then I thought that they conspired with high level officials and I did not tell him anything by then. After that, Shikhmuradov addressed me and asked me to wait in the street between Grand Turkmen Hotel and Pushkin Theater. On November 25, 2002, I exited my house at 6 a.m. in the morning and I caught a taxi on the street and came to the Grand Turkmen Hotel at about 6:45 a.m. After 5-6 minutes, jeep car of Yklymov Yklym approached me and stood near the car park at the Grand Turkmen Hotel near Pushkin Theater. Former Minister of Foreign Affairs of Turkmenistan, Batyr Berdiyev and Gundogdyev Yazgeldi were sitting in the back of the car and I sat in the front. After that, we arrived to Kurgozor Postal Office of Ashgabat where Gundogdyev Yazgeldi gave me his mobile phone and told me that people who will help you are sitting in the two cars ahead of us and that I should go with them to TV Studio and wait there for further command of Gundogdyev by mobile phone. I asked them what to do at TV and they told me that they will send the appeal of People’s Democratic Movement and wait for that before the TV studio. I did how they

asked. I went to one of those cars in yellow and sat in the front, where 3-4 Turkmen people in their forties were sitting there already in that car. Among them were Yazmuradov Yegenmyrad, whom I know since long time ago. He used to work as a teacher at the pedagogical college. After that, we went to TV studio and waited for about 15-20 minutes and I received the phone call from the mobile phone of Yazgeldi Gundogdyev and an unknown person in Russian told me “Retreat, go home”, which I told to other people sitting in the car and I asked one of the drivers to take me home.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

During the course of the investigation, 51 units of various types of guns (machine guns, five-shoot rifles and pistols) were confiscated from the criminals as a material evidence as instruments of crime. Among them are:

11 units of machine guns of “AK-47”, “AKMS” systems: 10 of them were made in People’s Republic of China and Arab Republic of Egypt and 1 of them made in Russian Federation;

31 units of five-shoot 12 caliber rifles and other hunting guns: 24 of them were made in Turkish Republic and 6 of them were made in Russian Federation and 1 made in the USA (with optic target);

1 small caliber sniper rifle;

5 units of pistols of the system “Pitero Bereta”, “RV Mod 70”, “Walter”: 3 of them were made in Italy, 1 in one Spain and 1 in Germany;

1 revolver of nagan type made in Russian Federation;

2 combat carbines of the SKS system made in Russian Federation;

6 magazines to the machine guns, 1383 patrons for the machine guns, 183 patrons for the pistols, 688 patrons for the small caliber sniper rifle, 131 patrons for 12 caliber hunting guns, 40 patrons from carbine, 21 smoke blocks, 1 knife-bar for the machine gun, 11 types of cold steel arms – knives, 9 walkie-talkies, 14 complete sets of military field-camouflage forms, 14 black masks, 1 night vision tool, 2 barrels from small caliber sniper rifle and 1 signal rocket.

During the course of the investigations, total of 46 dangerous criminals were arrested. B. Shikhmuradov, H. Hanamov, H. Orazov, S. Yklymov, Y. Yklymov, G. Jumayev and others committed the crimes indicated in the part 1 of Article 275 of Criminal Code of Turkmenistan (organization of the criminal association, participation in the criminal association), part 3 of Article 287 (illegal acquisition, purchasing, storage, transportation and transmission of fire-arms, ammunitions and explosives by criminal association), part 2 of Article 214 (illegal crossing of State Border of Turkmenistan), part 4 of Article 254 (contraband), part 1 of Article 176 (offence on the life of President of Turkmenistan), part 2 of Article 174 (conspiracy for the purpose of forceful takeover of the government and forceful change of Constitutional structure), part 3 of Article 271 (terrorism), part 2 of Article 14-101 (attempt on the willful homicide) and these people were held accountable in accordance with the articles in the law of Turkmenistan.

Dear people, investigations on this crime are underway. I would like to assure our people that betrayers of the Motherland, who made an attempt on the life our dear leader and committed such a serious crime, their panders and co-participants of the crime will be discovered, exposed and their guilt will be will be proved in accordance with the laws and they will get the punishment they deserve and there could be no doubt in this.

Attempt on the life of great son of our people, our dear leader Saparmurat Turkmenbashi the Great was prevented. Deserved punishment will reach those who made an attempt on the life of our dear leader Saparmurat Turkmenbashi the Great who established national home sacred and most valuable for every Turkmen, who glorified our nation and brought the nation into unseen economic progress, stability and gifted holy Rukhnama to us

an the entire world. These blinds, double-faced people and betrayers will not be faithful to any nation. For the sake of their own personal interests, they force people into trouble and chaos. Our people give precise evaluations to these bad will people and condemn them from their heart.

Here the question is arising: Are Shikhmuradov, Hanamov, Orazov, Yklymov, Jumayev and others in fact the organizers of this conspiracy? As we know, these easy riders do not enjoy a drop of respect among our people. They are just small criminals dabbling in politics. It is fair to give a question here: who is behind these political dabblers, who manage them, for what and which purpose these figures are used for? Only the investigations can in fact answer these questions. It will then become clear, who is behind these criminals and by whose order they committed this grave offence. People have a right to know which moving force brought this group, which call themselves as “democrats”, into action. There is no doubt that that the truth on this crime will be revealed. Those who hide behind them like a mouse, conspirators and executors of this treacherous offence on the liberty and independence of the nation, all the scoundrels and betrayers, terrorists and power-loving people looking forward to achieve their political ambitions will definitely be discovered and all of them will get their deserved legal punishment.

Dear people, organizers of this heaviest terror act should not avoid the accountability. Masks from their monstrous faces will be stripped off. We, the law enforcement agencies of Turkmenistan, call all the residents of the country to fulfill their civil duties. If you see terrorist, criminal betrayer Shikhmuradov or Yklymov, please immediately inform the law enforcement agencies of Turkmenistan.”

[End of the Report]

Subject: Former teacher and rector of the Turkmen State University named after Magtumguly, Mr. Tagandurdy Hallyev was deprived of his scientific degrees and titles.

Session of the High Council on Science and Technology at the President of Turkmenistan was held. During the session, the issue of deprivation of betrayer of the Motherland, former teacher and rector of the Turkmen State University named after Magtumguly, Mr. Tagandurdy Hallyev from his scientific degrees and titles was considered. By the decision of High Council, based on the decrees of the group on the humanitarian sciences of the High Council on Science and Technology at the President of Turkmenistan and expanded session of the Scientific Council of the Turkmen State University named after Magtumguly, Mr. Tagandurdy Hallyev was deprived of the scientific degrees of candidate (Diploma MFS #003384) and doctor of philosophic sciences (Diploma DT #015359) and also scientific titles of senior lecturer (Diploma DC #025761) and professor (Diploma PF 000002) for committing acts against the Constitution and state structure of Turkmenistan.

Subject: Results of the criminal acts, preliminary investigations of the crime increased the hate and anger of all people of Turkmenistan.

Condemnation meetings took place throughout the country to condemn the organizers and executors of the evil incident of November 25, 2002. Such meeting was held among the employees of oil and gas complex, in which they expressed their hate and anger towards the evil-doers Shikhmuradov, Gundogdyev, Berdiyev, Yklymov, Hallyev, Orazgeldiyev and others. Employees of the oil and gas complex also strongly condemned their colleagues Dovlet Gayipov and Rejepgeldi Nurgeldiyev in their meeting who were among those betrayers.

Condemnation meeting was also held at the Institute “Turkmensuwdesga” (Turkmen Water Facilities) to condemn Mr. Annamurad Hatamov, who worked at this institute, for helping scoundrels like the Boris Shikhmuradov, Guwanch Jumayev, Yklym Yklymov, Yazgeldi Gundogdyev, Serdar Rakhymov and dozens of other scoundrels

Such meeting was also held at the Pedagogical College named after Aman Kekilov, where the teachers and students of this college strongly condemned one of the conspirators, evil-doer Yazmuradov Ovezmurad, who worked at this college.

[END]

4.3. General Prosecutor’s TV-broadcast report (29 December 2002)

WATAN TV NEWS

29 December 2002. Sunday. 21.00

Full report of the Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova on the final preliminary results of the investigation of the criminal acts of November 25, 2002 broadcasted at 21:00 Edition of Watan News Program by the instruction of Saparmurat Turkmenbashi the Great on December 29, 2002.

Subject: Report of the Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova on the final preliminary results of the investigation of the criminal acts of November 25, 2002 broadcasted at 21:00 Edition of Watan News Program by the instruction of Saparmurat Turkmenbashi the Great on December 29, 2002.

In the beginning of her report, Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova praised great efforts of Saparmurat Turkmenbashi the Great for the sake of Turkmen people, who strongly condemned those who made an attempt on the life of our dear leader. Prosecutor General outlined that she told in her previous reports about the preliminary investigative actions of investigation commission consisting of employees of the Ministry of National Security of Turkmenistan, Ministry of Internal Affairs of Turkmenistan and General Prosecutor’s Office of Turkmenistan established for the purpose of investigation of terror acts that took place along Turkmenbashi Avenue of Ashgabat on November 25, 2002. Prosecutor General told that these evil acts of November 25, 2002 intended for creating chaos in the nation and state did not succeed and our great leader Saparmurat Turkmenbashi the Great was successfully saved. Prosecutor General told that our people condemned these evil actions and expressed their hate and anger towards the evil doers and outlined that our people strongly got united around our leader Saparmurat Turkmenbashi the Great.

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Investigations were carried out in full compliance with our legislation on criminal proceedings in concordance with international standards. Currently, it was undoubtedly proved that all criminal actions to be taken after the assassination attempt on the sacred life of our dear leader Saparmurat Turkmenbashi the Great were directly planned and organized by terrorists, escapees, public enemies, betrayers, doubled faced drug addicts, scoundrels, political blinds Shikhmuradov, Hanamov, Yklymov, Orazov, Jumayev and their companions. It was also undoubtedly proved that the assassination on the life of President of Turkmenistan was a beginning of subsequent criminal acts. During the course of the attack on the cortege of our dear leader by one group of terrorists, another group waited nearby the Mejlis (Parliament) of Turkmenistan and National Television of Turkmenistan in order take over these institutions forcefully. Today, all of our people and entire world community condemn these terrorist bandits, criminal world, which made an attempt on the carrying out *coup d’etat*

(overthrowing the state) in Turkmenistan. The search was announced against Shikhmuradov for fleeing the country after committing number of crimes. In 1994, by holding the position of Deputy Chairman of the Cabinet of Ministers of Turkmenistan, Shikhmuradov misused the high trust trusted upon him and conspired with the director of the State Company “Rosvooruzheniye” of Russian Federation, Mr. Spasskiy and number of others and for the purpose of satisfying his lucrative interests, he smuggled out abroad 5 units of very expensive SU-17 brand military jets, 9,000 units of AKS-74 machine guns, 1.5 million units of ammunitions, and number of other military equipment costing dozens of millions of USD, and illegally sold them to foreign countries and thus seriously damaged the defense capacities of our country. During his employment as a Minister of Foreign Affairs, Shikhmuradov together with his son illegally embezzled and got rid of 3 million USD currency resources of the state. He established over 30 private, secret firms at the expense of the money he has stolen from the state and employed his criminal, dirty people and thus stole the state resources and property in especially large quantities. The fact of criminal act of Shikhmuradov by illegally selling military jets, guns and ammunitions was fully proved by his Order #12 dated 23 May, 1994 “On forwarding 5 units of SU-17 brand military jets to State Company “Rosvooruzheniye” by exempting from all customs duties”, and his letter #14-158 dated 23 May, 1994 to the State Customs Office of Turkmenistan, number of documents on the sale and conveying of military jets, guns and ammunitions, by the testimonies of witnesses Kopekov, Soltanov, Shalykov, and by the those who shipped the technical equipment to the planes, chairman of ammunitions storage house, ensign Patarov Dovran, major Hanov Aynazar, Tikhonova Valentina Viktorovna and by the testimonies of number of other witnesses and other collected official documents on this case.

Shikhmuradov is held accountable by part 4 of Article 229 of Criminal Code of Turkmenistan (embezzlement, waste of trusted property in large quantities), part 2 of Article 181- (misuse of position), part 4 of Article 254 (contraband), part 3 of Article 291 (embezzlement of arms, ammunitions, explosives, explosive munitions), part 2 of Article 182 (exceeding the authority), part 3 of Article 287 (illegal acquisition, sale, transportation and conveying of arms, ammunitions, explosives and munitions), Article 181(titular dishonesty) and part 2 of Article 240 (illegally acquired monetary resources and legalization of other property). The investigation of the criminal case was completed and this criminal case with crime-sheet was sent to the consideration of court in March of 2002.

By the instruction of President of Turkmenistan, Saparmurat Turkmenbashi the Great, by informing you about the terror act on the assassination on the life of President of Turkmenistan, overthrowing the Constitutional structure and forcefully taking over the government, I informed in my previous report that the mastermind of this terrorist group, thief, passerby Shikhmuradov was detained by the law enforcement agencies. He testified that he organized this horrible crime, hired the criminals, created criminal group together with Hanamov, Orazov, Yklymov and that they prepared and realized their criminal plans together. Shikhmuradov acknowledged that he committed these criminal acts in order to become the President of the country but now he realized that he does not deserve such honor. Besides that, during his escape by hiding from the justice, Shikhmuradov called his friend Arkadiy Dubnov and asked him for Russian TV to spread the information on his non-involvement in these terror acts and testified that he was confident that the mass media units of other countries would spread the same info to the public and thus he would avoid the responsibility. According to Shikhmuradov, gullible people were supposed to believe in these false information but this time terrorist, thief, bandit had mistaken.

During the course of the preliminary investigations, terrorist Shikhmuradov, in his testimony said the following: He fully testified and acknowledged that by occupying highly responsible positions in our country in 1994, and by misusing the for the sake of satisfying his personal interests, he conspired with other officials and organized a group, with which he

illegally sold abroad modern 5 units of SU-17 brand military jets, which are the braces of defense capacity of our country, and other military equipment to foreign countries and thus he pocketed 30 million USD of the state for his own benefits and besides that he used the arms to commit especially cruel terror acts. He testified that by being afraid to stand before justice for this very serious crime, by being coward and in order to avoid and conceal the responsibility, he established a criminal band in the beginning of 2002 with the aim of assassination on the life of President of Turkmenistan, armed forceful takeover of the government, and forcefully changing the Constitutional structure and that this criminal band did not include a single honest person but consisted of sold drug addicts who lost reputations among people for their evil acts and who lost their dignity. Shikhmuradov who acknowledged that he himself continuously uses narcotic drug – heroine during many years, testified that he aimed to be the President of Turkmenistan, and that Hanamov, Orazov, Yklymov and others are not any kind of opposition but just people who previously committed crime in Turkmenistan and were convicted for that, who disrupted confidence on them, who do not enjoy any reputation and that this is a criminal band of scoundrels and betrayers of Motherland, who are ready commit any crime for the sake of money, dirty evil-doers, who contemplated political justification for their criminal acts by calling themselves as opposition, and as “fighters for democracy and justice”. In fact, Shikhmuradov acknowledged that there is no any kind of opposition to the state leadership in Turkmenistan. He also declared that he financed the activities of this criminal association by the dirty money of his own, Hanamov, Orazov, Yklymov by hiring the criminals, purchasing guns, walkie-talkies and masks.

He testified that he hired 4 citizens of Russia, 6 Turks and Turkmens and told them “if we can kill the President of Turkmenistan, take over the Government by destroying it, change the Constitutional structure, each of you will get 25,000 USD and in the case of death, the family of deceased will get 50,000 USD”. He testified that he assigned the execution of this terrorist crime in Turkmenistan to criminal Jumayev Guwanch, Yklymov Yklym, Yilmaz Mekhmet Ihsan and that he smokes narcotic drugs-heroin, opium with his criminal companions Hanamov, Orazov, Yklymov for several years.

In order to accomplish his criminal intentions, with the direct assistance of Ambassador of Uzbekistan in Turkmenistan, Kadyrov Abdyreshid, Shikhmuradov first arrived to Uzbekistan and then illegally came to Turkmenistan on the night from November 23 to November 24, 2002 by violating the Turkmen-Uzbek state border in the area of Niyazov etrap of Lebap welayat. He instructed criminal Jumayev Guwanch, Yklymov Yklym and Orazgeldiyev Nurmukhammet to greet him in Turkmenistan, harbor and protect him. After arriving to Ashgabat, Shikhmuradov resided in the house #15 belonging to Yklymov Yklym located in the 2nd Tselinniy passage of Ashgabat, from where he lead the execution of this crime and ordered Yklymov Yklym and Orazgeldiyev Nurmukhammet to bring Tagan Hallyev, Guwanch Jumayev, Leonid Komarovskiy, Gundogdyev, Berdiyev, Serdar Rakhymov, Yilmaz Mekhmet Ihsan, Orazmukhammet Berdiyev, Wekil Durdyev and instructed them with regard to their duties and functions. On November 25, 2002, when the first group of the criminals were standing along Turkmenbashi Avenue in order to assassinate the President of Turkmenistan, at approximately 06:30 a.m., he himself, Yklymov Yklym, Gundogdyev, and Berdiyev, four of them arrived to the nearby the building of Mejlis (Parliament) of Turkmenistan on Mitsubishi Pajero car of Yklymov and prepared to enter the building to take over the government forcefully with arms. He confirmed that they were waiting for the news about successful operation but due to the failure of the assassination attempt on the life of President, they escaped after Jumayev Guwanch informed them “Disband”. He also testified that together with Orazgeldiyev Nury, they first hid in the apartment of Jumayev Rustem located near the old airport and then hid in the residence of Ambassador of Uzbekistan in Turkmenistan, Kadyrov Abdyreshid from November 27, 2002 to December 13, 2002 and lived in the big room on the second floor and then Kadyrov Abdyreshid himself personally with his Jeep car dropped him off at around 01:00 a.m. during

the night and then he started hiding in the apartment #22 of his acquaintance Berdiklychev Aman located in building #134 of Magtumguly Avenue and that on December 25, 2002, law enforcement agents detained him there. During the period when he was under search by the law enforcement agencies for committing this very serious crime, he called his friend, journalist of NTV TV Channel, Mr. Arkadiy Dubnov and told him to make him look like if he has never committed this crime and collect the materials but in fact he testified that he committed terror act on November 25, 2002 and made an assassination attempt on the life of President of Turkmenistan, tried to destroy the government, forcefully tried to takeover the Mejlis (Parliament), forcefully tried to alter the Constitutional structure and that he executed this crime with his companions by personally coming here himself.

Boris Shikhmuradov:

I am Shikhmuradov Boris Orazovich, born in 1949. I defamed my Motherland. The kind of democracy and opposition that I used to talk about does not exist. The criminal band was established, which consisted of myself, Hanamov, Orazov and others. By living in Russia, we used narcotic drugs and under intoxication, we were involved in the preparation of people, hired mercenaries to commit terrorist acts. We, by getting involved in criminal conspiracy, we gave various promises to those who agreed to execute our tasks, namely destabilizing the situation in Turkmenistan, overturn the Constitutional structure and make an assassination on the life of President of Turkmenistan. At the expense of stolen money, we promised the mercenaries to pay various sums for the execution of this terrorist act. I, in fact, personally was involved in the trade of Turkmen military jets and the money obtained from them was further used for criminal purposes. The things that I sold was not only limited to the planes but also other types of armory. I would like to declare that at the end of November, I got in touch with journalist Dubnov and through him, I asked to carry on a lie on various TV channels, NTV, RTR, and other channels and misinform people on what happened in Ashgabat on November 25, 2002. We in fact tried to hide the fact on what really happened in Ashgabat and that we committed this crime for the purpose of depriving the President of Turkmenistan from his life by aspiring to destroy the state, change the constitutional structure, parliament, in which I took part along with other members of our criminal band.

After the crime, the assistance was rendered to us by the Ambassador of Uzbekistan, Kadyrov who helped me and one of the members of our group, Orazgeldiyev to find a shelter in his residence. I am appealing to the members of our criminal band, who currently continue to act, and I would like to stop them and tell them that the destiny of people in Turkmenistan and its future is associated with the name of current President Saparmurat Turkmenbashi the Great. This is a gift given to the people of Turkmenistan from above. The attempts to realize your criminal intentions, change the situation in the country for your own benefit turns about to be the terror against people. It is necessary to stop these criminal acts. This understanding came to my mind too late but I hope that if chance will be given, then I could wash this blemish on me with my labor and other good works for the sake of people under the leadership of wise leader. This a blemish of serious offence committed by me and by those who were with me in its execution”.

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned accused on this case and the direct executor of this organized criminal association, Jumayev Guwanch, in the earlier interrogations, acknowledged that in fact together with Shikhmuradov, Hanamov, Orazov, Yklymov Yklym, Yklymov Sapar, Orazberdiyev, Gundogdyev and others under the direct leadership of Shikhmuradov, they established a criminal band and organized a crime intended for the assassination on the life of President of Turkmenistan and that the main organizer, mastermind of the crime was Shikhmuradov, and that he (Shikhmuradov) hired foreign mercenaries for the execution of crime and distributed that the duties of each person and that Shikhmuradov together with Hanamov secretly sent arms to Turkmenistan via Yilmaz Mekhmet Ihsan and that he (Shikhmuradov) personally purchased them and that Yklymov Yklym and Orazgeldiyev

accepted them and hid them in their house and that Shikhmuradov appointed him as a leader to execute this crime in Turkmenistan and assigned Yklymov to help him. He also testified that terrorist Shikhmuradov personally purchased camouflages, masks, walkie-talkies for them from Russia and assigned Yilmaz Mekhmet Ihsan to train to use guns. Jumayev Guwanch testified that on the night from November 24 to November 25, 2002, he accepted all of the participants of this organized crime in his country-house in Choganly including mercenaries and drank alcoholic beverages with them till the early morning and smoke narcotic drugs – opium and heroine and that he dressed the participants of the crime with camouflages and put masks on them and gave them machine guns, rifles, walkie-talkies, and pistols and divided them into three groups and determined their place of assignment and their duties. He testified that he sent the groups to the buildings of Mejlis and TV Studio and instructed the second group to wait for the execution of the tasks of the first group on the assassination on the life of the President and wait for instruction and only after that the second group would enter the building of Mejlis, and force the Chairman of Mejlis to sign the documents prepared by terrorist Shikhmuradov, Hallyev in advance and that he assigned the third group to bring those documents as well as diskette with the speech of Shikhmuradov to TV and broadcast them to the public via TV but due to the failure of the first task on the assassination on the life of President of Turkmenistan, the second task on forcefully taking over the Government in a criminal way and forcefully alter the Constitutional structure also failed. Because of that, he informed armed criminals, terrorists Shikhmuradov, Yklymov, Gundogdyev, Berdiyev, Komarovskiy via walkie-talkie and phone waiting near by the building of Mejlis and Radio and TV to retreat and go and thus all of them managed to escape. Besides that, he testified and confirmed that during the employment of Tagan Hallyev as a Chairman of Mejlis (Parliament) of Turkmenistan, Tagan Hallyev maintained contacts with terrorist Shikhmuradov via Orazgeldiyev Nury and prepared number of documents, laws and decree on the appointment of Shikhmuradov as a President, leading the government and holding elections after two years. He confirmed that Hallyev informed Shikhmuradov that the President will release him from his position as a Chairman of Mejlis (Parliament) of Turkmenistan on November 10, 2002 and asked to carry out *coup d'etat* as soon as possible, so that he could himself sign all the official documents while chairing the Parliament and he would himself transfer the deputies to his side. Also, he testified that terrorist Shikhmuradov talked with Extraordinary and Plenipotentiary Ambassador of Uzbekistan in Turkmenistan, Kadyrov Abdyreshid and with his direct assistance, Shikhmuradov arrived to Tashkent and then to Karshy city of Uzbekistan and then illegally entered Turkmenistan by violating the state border and that Ambassador Kadyrov took Shikhmuradov and Orazgeldiyev Nurmukhammet to his residence and harbored them from November 26, 2002 to December 13, 2002 by giving them one of his rooms.”

Jumayev Guwanch:

I am Jumayev Guwanch. During my visit to Istanbul city, Turkey in summer of 2002, I met with Boris Shikhmuradov and we talked about this criminal act. On November 21, 22, he called me and told me that on November 23, 2002 on Friday, he would fly from Istanbul to Tashkent and that he will be greeted there and everything was settled with relevant people and that they will bring him to Karshy city of Uzbekistan and told me that my people should come to that place. I said Ok. I have a friend named Dovletov Gayip, chairman of oil products base of Dostluk etrap and I asked him a favor.

When I spoke to him over the phone I did not specify him who is coming and told him that the guest is coming and asked him whether he can handle him from there. He said ok. I told him that the person’s name would be Jora aga or Jora eke in Uzbek. I asked him to bring the person named Jora eke to Turkmenabat city, where person named Nury Orazgeldiyev will meet them and you will find each other by phone and told him that Boris Shikhmuradov knows his telephone. As agreed, he (Shikhmuradov) managed to come to Karshy city of Uzbekistan himself, from where he came to Tellemerjen village of Uzbekistan and they phoned me from there from the telephone-postal office and told that they are staying

there. After that Dovletov Gayip found them there and helped him to cross the border with various ways and means of transportation and thus reached Amuderya village, and then to Kerki by crossing the river and when they reach Turkmenabat city, Orazgeldiyev Nury greeted them at the Dunya Market and made their way to Ashgabat in a very fast speed. My task was to stay near the building of Mejlis and TV. He told me to allocate 7-8 guys to each place. The main thing is Mejlis after the accomplishment of the first stage, people of Mekhmet Yilmaz would come and told us to be together with them. There were armed people who were assigned to stay in Mir 1 district and Mekhmet Yildiz directly lead them. Mekhmet Yildiz was himself found by Shikhmuradov and Hanamov. It is true that I gathered these people in my father's house and I fully acknowledge this and it is a big fault. At 05:00 a.m. armed people in two GAZEL vans made their way from my father's house. We gathered near former Kurgozor shop on the back of Mejlis. When I came there, I saw Shikhmuradov coming out of Jeep and he got on my car. Mekhmet Yildiz was supposed to return here with two GAZEL vans by informing us from there. My fault is very big. I very much regret now.”

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned Yklymov Yklym fully confirmed the testimony of Jumayev Guwanch and acknowledged that he together with Shikhmuradov in fact took part and executed this very serious crime for purpose of assassinating the life of the President of Turkmenistan, forcefully taking over the Government of Turkmenistan with arms and forcefully changing the constitutional structure. He confirmed his testimonies and told that these criminal acts were organized by terrorist, drug addict Shikhmuradov, his criminal companions drugs addicts Hanamov, Orazov, Sapar Yklymov and that the main terrorist Shikhmuradov personally assigned him, Jumayev Guwanch and Orazgeldiyev Nurmukhammet to execute the crime in Turkmenistan and to hire criminals and that Shikhmuradov provided complete financing of the criminal group and that he (Shikhmuradov) gave big amounts of money to purchase arms and hire the criminals. He testified that he accepted Yilmaz Mekhmet Ihsan sent by Shikhmuradov and Turkish mercenaries and hid them in apt#2 of house #13 of DOSAAF passage of Ashgabat and hid 4 Russian mercenaries in his house #21 located on the 6th Tselinniy passage. Yklymov testified and confirmed that under the guidance of terrorist Shikhmuradov, Orazgeldiyev Nurmukhammet together with Yilmaz Mekhmet Ihsan purchased arms, machine guns, five-shoot rifles, pistols and ammunitions and smuggled them into Turkmenistan in big cargo truck and hid them in his house #15 located in the 2nd Tselinniy passage. Besides that, Yklymov testified that the ex-Chairman of Mejlis (Parliament) of Turkmenistan, Tagandurdy Hallyev supported the works of Shikhmuradov in carrying out *coup d'etat* in Turkmenistan and during his chairmanship over the Mejlis, he (Hallyev) prepared all the decrees and laws on the appointment of Shikhmuradov as a President and transferring the power to Shikhmuradov and told that he would sign them. That's why, he (Yklymov) testified that he (Hallyev) proposed to carry out *coup d'etat* as soon as possible. He testified that on November 23, 2002, together with Jumayev Guwanch and his companions Gayipov, Orazgeldiyev, Annasakhedov, Nurgeldiyev, he illegally brought terrorist drug addict Shikhmuradov to Ashgabat, who violated state border and illegally entered to Turkmenistan in the area of Saparmurat Niyazov etrap of Lebap welayat and accepted him with his wife Prokofyeva, who were in close relations with Yklymov and hid him in his house #15 located in the 2nd Tselinniy passage. He testified and confirmed that by the order of the major terrorist Shikhmuradov, he brought his criminal companions Gundogdyev, Berdiyev, Rakhymov Serdar, Komarovskiy Leonid, Yilmaz Mekhmet Ihsan, Orazgeldiyev Nury, Hallyev Tagandurdy, Durdyev Wekil, Beridyev Orazmukhammet for the meeting with Shikhmuradov one by one with his Mitsubishi Pajero brand car with state registered number E 36-96 AG so that no one could notice them. He testified that they discussed there the assassination on the life of President of Turkmenistan, their actions with regard to carrying out *coup d'etat* and order of making the previously prepared documents public. Yklymov Yklym, at approximately 06:30 a.m. on November 25, 2002, drove to the nearby the building of Mejlis with his Mitsubishi Pajero brand car with state registered

number E 36-96 AG by taking terrorist Shikhmuradov, Gundogdyev, Berdiyev Batyr on board and once the news comes on the assassination on the life of President of Turkmenistan, terrorist Shikhmuradov together with Jumayev were ready to enter the building of Mejlis with arms, use force and make the Chairman of Mejlis to sign the documents that they have prepared. However, once they were informed about the failed crime for the purpose of assassination on the life of President of Turkmenistan, they escaped from the building of Mejlis and by taking their luggages from the house #15 located in the 2nd Tselinny passage, Shikhmuradov and Orazgeldiyev hid in the apartment of Jumayev Rustem near the old airport, who previously worked with Shikhmuradov. After that, from November 25 to November 28, 2002, Yklymov together with O. Prokofyeva hid in the apartment of her aunt Svetalana Prokofyeva living in Mir 3 mini-residential district and then in the house #46 of Annayeva Hurma located on Alisher Novai Street till December 21, 2002.

Yklymov Yklym:

I am Yklymov Yklym, in summer of 2002, approximately at the end of May, beginning of June, I entered the criminal conspiracy with Boris Shikhmuradov, Guwanch Jumayev for the purpose of replacement of the current government with another. I was assigned to accept foreign mercenaries, whom I placed in the houses of my relatives Yklymov Amanmukhammet and Yklymov Oraz. On November 24, 2002, Boris Shikhmuradov came to my house in Tselinny passage in Jeep Dodge brand car.

I don't remember the number of the car and on the same day, such people as Guwanch Jumayev, citizen of Turkey, Mekhmet, Batyr Berdiyev, Gundogdyev came to my house in Tselinny passage and during the day, Boris Shikhmuradov held meetings with them on various issues of the upcoming operation or *coup d'etat*, which main purpose was to get rid of currently acting President, taking over the government organizations and transferring the power to the Interim Executive Council, which failed on November 25, 2002. On November 25, 2002, in the morning, I was near the building of Mejlis, so that upon the receipt of signal about the assassination on the life of President, I together with Boris Shikhmuradov, Jumayev Guwanch was supposed to enter the building of Mejlis, so that Mejlis can declare on the transfer of power to the Interim Executive Council and self-dissolution. After the "retreat" signal, we escaped. Boris Shikhmuradov changed his car and got on my car and I took him to the old airport and dropped him off near the 2nd Petrozavodsk Passage, where he was taken by Orazgeldiyev Nurmukhammet. I left my car nearby in the neighboring door, got on taxi and left the place and I hid till December 21, 2002."

Prosecutor General of Turkmenistan, Mrs. Gurbanbibi Atajanova:

Questioned Yazgeldi Gundogdyev, Batyr Berdiyev, Serdar Rakhymov, Ovezmurad Yazmuradov, Orazmukhammet Berdyev, Wekil Durdyev, Timur Jumayev, Rovshen Dovletov, Amangeldi Hatamov, Nepes Hemrayev, Arslan Babayev, Vladislav Novozhilov, Aram Atanesyan, and other criminals testified that that they in fact took part in the criminal band established under the leadership of Shikhmuradov and that they were given exact tasks by the organizer and mastermind of this very serious crime, Shikhmuradov, Yklymov, Yklym, Jumayev Guwanch and that they fulfilled the tasks by counting on dirty money.

It was fully proved by the investigation that the purpose of terrorist Shikhmuradov and his criminal companions – Hanamov, Orazov, Yklymov, participants of the established criminal band was the depriving of President of Turkmenistan from his life, carry out criminal forceful takeover of the government in Turkmenistan, and forceful change of state structure. This fact was fully proved by the testimonies of other questioned criminals Baty Berdiyev, S. Rakhymov, D. Nazargulyev, O Berdyev, O. Yazmuradov, W. Durdyev, A. Garayev, A. Babayev, V. Novozhilov, V. Shagalov, Rozy Jumayev, Timur Jumayev, Chary Jumayev, Amanmukhammet Yklymov, Orazmammet Yklymov and others, and by the results of identification parades (face to face identification meetings), video-records in the scene of incident, where criminals demonstrate and describe their actions, by the results of forensic-

medical, forensic-biological, forensic-chemical, ballistic and other special expertise attached to the given case by the numbers #137, #138, #140, #141, #142, #146, #238, #2827, #2828, #2829, #2853 and the finger prints on arms, and hair in the masks belonging to the criminals. It was proved that the narcotic drug found in the cigarette pack of Shikhmuradov when he was arrested by the law enforcement agencies was heroine made in the form of cigarette. The following were confiscated from the hiding places of criminals as material evidences: 58 arms of various types (11 machine guns, 32 units of five-shoot rifles, 4 carbines, 9 pistols, 2 units of RGD-5, F-1 grenades), 2,280 patrons, 11 units of cold arms in the form of knives, 9 units of walkie-talkies, 15 units of military-field camouflage uniforms, 14 masks, 2 telephones, antenna, computers. 20 cars and other collected documents were recognized as instruments of crime.

By fulfilling the fair requirement of our dear leader, Saparmurat Turkmenbashi the Great that we should have no secret from people and that everything should be carried out openly and also by the instruction of our Great Leader, all the details of the terror acts of November 25, 2002 will be made public in the Khalk Maslakhaty (People's Council)- the most representative nationwide forum opening on December 30, 2002.

[End of the Report]

КРАТКОЕ СОДЕРЖАНИЕ

1. По запросу десяти государств-участников был приведен в действие механизм человеческого измерения ОБСЕ в соответствии с § 12 Московского документа. Миссия состояла из одного докладчика, т.к. Туркменистан не назначил второго докладчика. Докладчику ОБСЕ было поручено провести *«миссию по сбору информации в Туркменистане с целью изучения проблем, возникших в связи с расследованием по факту предполагаемой попытки покушения на президента Ниязова, совершенной 25 ноября»*. Задача докладчика – *«расследовать все, что связано с проведением следственных работ (в том числе заявлений о применении пыток), а также с развитием последующих событий, которые могут поставить под особо серьезную угрозу выполнение Туркменистаном данных им обязательств по ОБСЕ в области человеческого измерения»*. Для данной миссии был выбран докладчик, известный своим объективным подходом к работе, который выполнил задание совершенно независимо и конфиденциально, и 25 февраля 2003 г. представил отчет.

2. Отчет начинается с описания правовой базы для изучения сложившейся ситуации с точки зрения как международного, так и национального права. Несмотря на то, что Туркменистан заявляет о своей приверженности верховенства закона, на самом деле он избегает международного контроля, не отчитываясь в выполнении своих обязательств и не присутствуя на встречах ОБСЕ по человеческому измерению. На национальном уровне, конституционные принципы в Туркменистане нарушаются вследствие слитности/неразделенности ветвей власти и отсутствия эффективных механизмов соблюдения Конституции.

3. Далее в отчете изложены результаты работы миссии по сбору информации, а именно различные аспекты репрессий, продолжающихся с момента покушения на президента Ниязова, совершенного 25 ноября 2002 г. Имели место крупномасштабные нарушения всех принципов правосудия, в частности, незаконные задержания и показательные суды. Для получения признаний применялись пытки; кроме того, задержанным насильственно вводились наркотические препараты, что представляло опасность для их жизни, а также для так называемого «криминализования» задержанных. Против «врагов народа» были развернуты широкие репрессии различного характера, официально объявлено об их принудительном выселении в засушливые районы страны. В особенности это касается тех, кто подвергся репрессиям на почве этнического происхождения. Хотя смертная казнь отменена законом, на практике ожидаемая продолжительность жизни политических заключенных и насильственно переселенных лиц очень невысока. Возможно, что некоторые осужденные, которые содержались в заключении без связи с внешним миром, уже казнены.

4. В отчете содержится длинный список конкретных случаев, отражающий различные формы нарушений, имевшие место в ходе данной волны репрессий. Список составлен на основании наиболее достоверных данных, представленных НПО. Список будет пополняться и уточняться по мере

поступления новых сведений. Международное сообщество должно проявить максимум внимания к этим данным. В сложившейся ситуации крайне важно, чтобы третьи страны, и в особенности страны, подписавшие Европейскую конвенцию по правам человека, отвечали отказом на запросы Туркменистана об экстрадиции или «депортации» туркменских граждан.

5. Отчет завершается списком практических рекомендаций. Особо подчеркивается, что международное сообщество должно приложить все усилия, чтобы не допустить изоляции, в которую погружается Туркменистан. Совершенно необходимо отреагировать на сложившееся положение, в особенности в рамках ОБСЕ или ООН. Несомненно, потребуется дальнейшее расследование ситуации со стороны структур ОБСЕ, которые должны незамедлительно приступить к работе, а также со стороны докладчиков Комиссии ООН по правам человека. Докладчик ОБСЕ считает нужным обратить внимание международного сообщества на то, что данная ситуация представляет крайне серьезную опасность нарушения основных принципов международного права.

РЕКОМЕНДАЦИИ

Настоящий отчет – лишь отправная точка для работы, лишь один из этапов, запущенным в действие Московским механизмом. Сам по себе мандат докладчика имел явные ограничения, а именно:

Ratione materiae (сущностное ограничение): нас просили обратить внимание только на последствия 25 ноября 2002 г., а не оценивать в целом ситуацию с правами человека в Туркменистане, в том, что касается, например, общественных свобод, прав меньшинств, а также экономических, социальных и культурных прав населения. Между тем нынешний кризис является продолжением имевших место ранее нарушений и лишь усугубляет их наиболее мрачные черты.

Ratione temporis (временное ограничение): отчет должен был быть составлен в определенные сроки, между тем как к докладчику продолжают поступать важные сведения¹. Дабы соблюсти предусмотренные Московским механизмом временные ограничения, докладчик представляет свой отчет сейчас, с учетом двух недель, отведенных на консультации заинтересованных стран. В связи с этим он выражает сожаление, что руководство Туркменистана, которое должно было быть главным источником информации на эту тему, по-прежнему не предоставило никаких сведений, и надеется получить от туркменского руководства подробные ответы на заданные ему многочисленные вопросы.

Наконец, ***Ratione personae*** (личные ограничения): докладчик не мог в соответствии с Московским документом, поехать в Туркменистан, и, что самое главное, не мог вступить в контакт с лицами, проживающими в Туркменистане.

¹ После опубликованного 14 февраля 2003 г. пресс-релиза, в котором не был указан крайний срок подачи заявлений, к докладчику уже поступило и продолжает поступать множество добровольных сообщений свидетелей.

Его предупредили, что сама по себе попытка связаться с адвокатами по судебным делам, о которых идет речь, может угрожать их безопасности.

Несмотря на данные ограничения, или ввиду них, настоящий доклад должен стать отправной точкой для более масштабных мер по охране прав человека в Туркменистане со стороны ОБСЕ, и шире – со стороны стран-участников ОБСЕ и международных организаций. Докладчик не вправе давать заключение касательно политических или экономических последствий таких мер. В том же, что касается правового аспекта ситуации, которым он занимался, то он считает себя обязанным подчеркнуть важность особой бдительности в отношении соблюдения обязательств по человеческому измерению, верховенству закона, демократии и правам человека. Постоянный нейтралитет Туркменистана не может сводиться к политике отсутствия на тех встречах ОБСЕ по человеческому измерению, заседаниях органов ООН и комитетов МОТ, где он обязан отчитываться о выполнении международных обязательств. «Постоянный нейтралитет» не должен стать фиговым листком постоянных нарушений прав человека.

При всей ограниченности настоящего отчета, из него вырисовывается страшная картина. Поражает воображение то, насколько декларируемое право отличается от реальности террора и страха. Только возврат к соблюдению принципов и обязательств по ОБСЕ позволит Туркменистану выбраться из пучины, в которую его затягивает. Имея в виду необходимость мобилизации международного сообщества, при непременном содействии со стороны Туркменистана в соблюдении прав человека, мы излагаем ниже рекомендации, как общего характера – несомненно утопические в сложившейся ситуации, но все же обязательные в будущем – так и конкретные, подлежащие немедленной реализации. Хотя рекомендуемые меры могут показаться нереалистичными, они все же неизбежны для всякой страны, придерживающейся принципа верховенства закона и являющейся полноправным членом международного сообщества. Туркменистан не может стать «черной дырой» в ОБСЕ и пустыней прав человека. Изоляция, в которую погружается Туркменистан – это худшее из всех возможных решений.

1. Первая рекомендация – усилить гарантии, подразумеваемые принципом верховенства закона, путем создания независимого Конституционного суда, который будет гарантировать преимущество международного права перед внутренним, разграничение ветвей власти и пересмотр соответствия законов Конституции. В отсутствие жесткой Конституции, снабженной эффективными механизмами ее реализации, верховенство закона останется незавершенным и хрупким.

2. Международные гарантии – важный фактор укрепления внутренних гарантий. Туркменистан уже принял на себя ряд важных обязательств. Но все они остаются на бумаге, во-первых, поскольку власти не выполняют своих самых минимальных обязательств сотрудничать с органами мониторинга, и в первую очередь представлять регулярные отчеты органам мониторинга ООН; во-вторых, потому, что общество должным образом не информируется о государственных обязательствах. Туркменистан должен незамедлительно представить отчеты, запрошенные органами ООН и МОТ. В противном случае

Генеральная Ассамблея ООН должна будет пересмотреть вопрос о соблюдении Туркменистаном резолюции 50/80 от 12 декабря 1995 г. в части соответствия целям и принципам Устава ООН.

3. Кроме того, Туркменистан должен подтвердить свою готовность выступать в качестве члена международного сообщества, подписав пока еще не ратифицированные им соглашения в области прав человека, в первую очередь Конвенцию 1948 г. против геноцида и Римский статут Международного уголовного суда, а также последний Факультативный протокол Конвенции ООН против пыток от 1984 г.

4. На внутреннем уровне, приоритетом является обеспечение полной гарантии независимости судов в соответствии с нормами ООН и обязательствами в рамках Копенгагенского документа. Аналогичным образом, эффективное правосудие могут отправлять только достойные и независимые суды. Докладчик рекомендует немедленно пригласить для оценки положения в этой сфере Специального докладчика ООН по независимости судей и юристов. Приоритетным направлением должно стать внедрение программ международного сотрудничества в области независимости судей и обучения сотрудников правоохранительных органов.

5. Должны соблюдаться права представителей гражданского общества; во всех регионах страны должна оказываться помощь работе НПО. В связи с этим, туркменские власти должны незамедлительно рассмотреть требование многочисленных международных НПО о немедленном освобождении Фариды Тухбатуллина, активиста экологического движения, о мирном, неполитическом характере деятельности которого сообщают все НПО. С тем, чтобы способствовать соблюдению обязательств по ОБСЕ, Туркменистан должен подписать с ОБСЕ/БДИПЧ стандартного образца Меморандум о взаимопонимании касательно реализации проектов в сфере верховенства закона и укрепления гражданского общества.

6. Политические судебные процессы, произошедшие после попытки переворота 25 ноября, должны быть пересмотрены путем апелляций либо повторных процессов, при полном соблюдении прав обвиняемых и гарантии присутствия наблюдателей, в особенности представителей НПО, в соответствии с обязательствами ОБСЕ. Необходимо положить конец репрессиям и практике коллективной конфискации собственности.

7. Специальный докладчик ООН по пыткам, а также Рабочая группа ООН по произвольным задержаниям должны срочно расследовать условия содержания заключенных, ожидающих суда. Аналогичным образом, Специальный докладчик ООН по внесудебным, суммарным и произвольным казням должен быть приглашен для расследования заявлений о смерти лиц, содержавшихся под стражей в связи с предполагаемым покушением 25 ноября.

8. Туркменистан должен немедленно положить конец практике насильственного переселения людей, в особенности представителей национальных меньшинств. Он обязан гарантировать всем гражданам Туркменистана и иностранным гражданам свободу передвижения внутри страны и свободу выезда из страны, и,

в частности, способствовать приграничным контактам. Учитывая опасность ситуации, руководство Туркменистана должно пригласить в страну со срочным визитом Специального представителя Генерального секретаря ООН по лицам, перемещенным внутри страны.

9. Туркменистан должен отказаться от заявлений в духе дискриминации и от практики дискриминации на основе принципа «расовой чистоты», противоречащего всем международным нормам. Он должен пригласить в страну Специального докладчика ООН по современным формам расизма, расовой дискриминации, ксенофобии и схожей с ними нетерпимости, и незамедлительно отреагировать на требования Комитета ООН по ликвидации расовой дискриминации.

10. Туркменистан должен соблюдать Венскую конвенцию 1961 г. о дипломатических сношениях и Венскую конвенцию 1963 г. о консульских сношениях, и в частности, разрешить консульскую защиту задержанных иностранных граждан и лиц, имеющих двойное гражданство.

11. Третьи страны, и, в частности, страны-участники Европейской конвенции по правам человека, должны отвечать отказом на запросы об экстрадиции или выдаче граждан Туркменистана, которым в данной ситуации угрожает опасность подвергнуться пыткам или бесчеловечному и унижающему достоинство обращению. Они должны рассмотреть возможность предоставления статуса беженцев всем лицам, обоснованно опасаящимся репрессий, и сотрудничать с этой целью с УВКБ ООН.

12. Третьи страны должны потребовать от руководства Туркменистана не препятствовать распространению на его территории зарубежной прессы, свободному доступу к международным СМИ и электронным средствам связи. Государства-участники ОБСЕ должны поддержать акцию Представителя ОБСЕ по свободе СМИ.

13. Рекомендуются полностью обнародовать настоящий доклад, включая приложения, широко распространить его перевод на русский язык и обеспечить доступ к его электронной версии на сайте ОБСЕ.

14. Особо рекомендуется незамедлительно передать настоящий отчет в Офис Верховного комиссара ООН по правам человека с целью распространения среди всех участников 59-ой сессии Комиссии по правам человека.

15. Наконец, рекомендуется передать настоящий отчет прочим заинтересованным международным организациям, в частности, Международной организации труда, Содружеству независимых государств, Совету Европы, Европейскому банку реконструкции и развития, Азиатскому банку развития и Всемирному банку.

16. Заключительная обязанность докладчика ОБСЕ – просить Действующего председателя и центр ОБСЕ в Ашхабаде проследить за должным выполнением § 6 Московского механизма, *«государства-участники воздерживаются от*

любых действий против лиц, организаций или институтов из-за их контактов с миссией экспертов или любой переданной ей открытой информации»

Цель докладчика – сосредоточить дальнейшую работу не на дипломатическом или политическом уровне, а на уровне права и фактов. Необходимо отреагировать на настоящий отчет не только в рамках ОБСЕ, но и в рамках ООН и шире, в масштабах международного сообщества в целом. Цитируя слова президента Вацлава Гавела, *«некоторые международные организации умирают из-за собственной вежливости»*. Главное, чтобы Туркменистан мог жить. Предварительная картина событий, произошедших за три страшных месяца после 25 ноября, ужасающа. Всякое промедление будет означать не просто моральное отречение от случившегося, но и коллективное соучастие в нем.



**DELEGATION OF TURKMENISTAN
TO THE OSCE**

№01-25/4-64

The Delegation of Turkmenistan to the OSCE presents its compliments to the OSCE Office for Democratic Institutions and Human Rights and herewith has the honor to transmit attached comments of the Turkmen side on the Report of the Rapporteur on Moscow Mechanism Mr. Decaux.

The Delegation of Turkmenistan to the OSCE avails itself of this opportunity to renew to the OSCE Office for Democratic Institutions and Human Rights assurances of its highest consideration.

Vienna, March 10, 2003



**To the OSCE Office for Democratic Institutions and Human
Warsaw**

Attachment: 6 pages.

Об отчете докладчика Э. Деко

Туркменистан, являющийся равноправным государством-участником ОБСЕ, выражает решительное несогласие с продолжающимися попытками оказывать давления на него, которые иницируются со стороны представителей ряда государств-участников ОБСЕ в связи с расследованием террористического акта, совершенного 25 ноября 2002 года в Ашхабаде.

Следуя своим обязательствам перед ОБСЕ и в рамках процедурных норм и правил, туркменская сторона своевременно и в полной мере информировала все заинтересованные учреждения ОБСЕ по существу расследования уголовного дела о попытке насильственного захвата власти и изменения конституционного строя в Туркменистане путем совершения террористического акта и посягательства на жизнь Президента Туркменистана.

Не принимая во внимание позицию Туркменистана как полноправного члена ОБСЕ, а также игнорируя представленную с его стороны исчерпывающую информацию по соответствующему вопросу, известные 10 государств-участников ОБСЕ в одностороннем порядке назначили докладчика. Проявленная поспешность с их стороны не способствует плодотворному сотрудничеству и, придавая сугубо политическую окраску, сводит на нет международно-правовую базу рассматриваемого вопроса.

Результатом игнорирования доброй воли Туркменистана к сотрудничеству и диалогу стало нарушение инициаторами этой процедуры главного требования Документа Московского совещания по человеческому измерению ОБСЕ 1991 года, выраженного в пункте 17, где четко указано, что, государства-участники:

- *безоговорочно осуждают силы, стремящиеся захватить власть у представительного правительства в любом государстве-участнике вопреки воле народа, выраженной в ходе свободных и справедливых выборов, и в нарушение законно установленного конституционного строя;*
- *в случае свержения или попытки свержения демократически избранного законного правительства какого-либо государства-участника недемократическими средствами будут решительно поддерживать в соответствии с Уставом ООН законные органы этого государства, стоящие на страже прав человека, демократии и верховенства закона, признавая свои общие обязательства противодействовать любой попытке ограничить эти ценности».*

Таким образом, вышеуказанные односторонние действия пока не оправдывают ожидания и надежды Туркменистана на всеобъемлющее сотрудничество при обсуждении вопроса о террористическом акте,

совершенном в Ашхабаде 25 ноября 2002 года и осуждении действий преступников.

Туркменистан вступил в Организацию по Безопасности и Сотрудничеству в Европе 30 января 1992 г. В том же году 8 июля Туркменистан присоединился к Заключительному Хельсинскому акту 1975 г., продемонстрировав свою приверженность принципам гуманизма и сотрудничества, а также готовность к широкому международному партнерству. Туркменистан придерживается главного принципа сотрудничества в рамках ОБСЕ, согласно которому, все государства-члены имеют одинаковый статус, равное право голоса и решения принимаются исключительно на основе консенсуса.

Туркменистан с первых дней своего участия в ОБСЕ в качестве полноправного члена, твердо придерживается норм и принципов этой международной организации и четко выполняет взятые на себя обязательства. Как заявил Президент Туркменистана С.А. Ниязов в своём выступлении на встрече на высшем уровне государств-участников СБСЕ 10 июля 1992 года в Хельсинки: «Туркменистан со всей ответственностью заявляет, что будет честно и открыто сотрудничать со всеми государствами, которые действуют во имя высоких целей, стоящих перед мировым сообществом. Невмешательство во внутренние дела других государств, позитивный нейтралитет – вот русло политики, в фарватере которой будет следовать независимый Туркменистан».

Туркменистан остается верным принципу, суть которого была оглашена президентом С.А.Ниязовым на том же саммите в Хельсинки: «В условиях современного развития в международных отношениях необходимо как никогда придерживаться четких норм поведения, которые определяются десятью принципами Заключительного акта. Туркменистан считает, что только политические консультации, добрая воля и гибкость дадут возможность для цивилизованного разрешения споров и конфликтов».

Доказательством последовательности курса Туркменистана является уже тот факт, что после событий 25 ноября туркменская сторона незамедлительно обратилась к иностранным государствам и международным организациям с просьбой об оказании помощи в раскрытии этого преступления и задержании преступников. Повторные запросы с просьбой оказать содействие в розыске и задержании преступников впоследствии неоднократно были направлены в адрес иностранных государств, в первую очередь европейских стран. К сожалению, такая помощь не была оказана, хотя Туркменистан постоянно доказывает на деле свою готовность и желание сотрудничать со странами-членами ОБСЕ и другими государствами в сфере борьбы с преступностью и терроризмом. При проведении расследования указанного террористического акта Туркменистан приглашал к сотрудничеству правоохранительные органы других государств и международные организации.

Туркменистан, демонстрируя свою добрую волю и основываясь на принципах дружбы и сотрудничества, общепризнанных мировым сообществом, первым проявил инициативу о выдаче преступников из числа иностранных наёмников тем государствам, гражданами которых они являются. Такой пример еще раз подчеркивает, что Туркменистан строго следует принципам и нормам международного права и действует на основе накопленного позитивного опыта в практике международных отношений.

К сожалению, ряд государств-членов в ответ на неоднократные обращения к ним туркменской стороны, встали на путь деструктивизма, способствуя приданию политической окраски действиям террористов, совершивших особо тяжкое преступление против государства и его общепризнанного лидера. В наиболее концентрированном виде эти попытки выразились в так называемом «отчёте» докладчика г-на Э.Деко, который якобы собирал материалы и изучал суть вопроса в ходе своего небольшого турне по Европе с кратковременными остановками в Вене (2 дня), Варшаве (2 дня) и в Гааге (2 дня).

Эта информация не имеет ничего общего с объективными целями и задачами ОБСЕ как международной организации, которая призвана обеспечить диалог и сотрудничество государств во имя безопасности и мира.

Кроме того, докладчик Э.Деко в своём отчёте выходит далеко за рамки его полномочий и приводит не соответствующие действительности сведения о якобы массовых арестах, переселении национальных меньшинств, тяжелых условиях в местах лишения свободы, собранные на основе тенденциозных сообщений и недостоверных источников. О противоречивости составленного отчета свидетельствует сам же Э.Деко, когда пишет, что он был уполномочен «сосредоточить внимание на последствиях событий 25-ого ноября, а не вообще давать оценку ситуации по правам человека в Туркменистане, к примеру, свободе общества, прав меньшинств или экономических, социальных или культурных прав населения».

«Отчёт» докладчика Э.Деко, свидетельствует о наличии действий, нацеленных на создание в ОБСЕ обстановки, которая может привести к ослаблению единства и взаимопонимания её участников. Представляется, что одной из целей такого рода действий является попытка пересмотра сложившихся принципов международного сотрудничества, традиций взаимоуважения и невмешательства во внутренние дела других государств.

«Отчёт» докладчика Э.Деко, поспешно скомпилированный по заранее выполненным заготовкам, не выдерживает критики и является сугубо тенденциозным. Те односторонние выводы и рекомендации, которые содержатся в отчете, ничем не отличаются, а зачастую повторяют измышления «желтой прессы», которые не могут считаться источником объективной информации. В этой связи туркменская сторона выражает своё возмущение

необъективным отношением и тенденциозным освещением ситуации в Туркменистане со стороны докладчика ОБСЕ. Кроме того, вызывает недоумение тот факт, что ОБСЕ проявляет спокойствие по отношению к ряду европейских стран-участников, на территории которых находятся и свободно перемещаются особо опасные преступники, официально объявленные Туркменистаном в межгосударственный розыск.

Туркменская сторона своевременно передала исчерпывающую информацию в ОБСЕ о ходе предварительного расследования тяжкого преступления, совершенного 25 ноября 2002 года группой международных террористов, целью которых был насильственный захват власти и изменение конституционного строя в Туркменистане путем покушения на главу государства и совершения террористических актов. Кроме того, в ходе выступления делегации Туркменистана 22 января 2003 года в штаб-квартире ОБСЕ в Вене, представители заинтересованных государств-участников имели возможность воочию ознакомиться с фото-, видео- и другими материалами по факту совершенного террористического акта, которые свидетельствуют о том, что следствие по данному уголовному делу проводилось в строгом соответствии с законодательством и международными нормами.

Отчет Э.Деко не содержит ничего нового с точки зрения предшествовавших ему выступлений и заявлений представителей некоторых стран, со стороны которых ни разу не последовало каких-либо конструктивных предложений или встречных шагов на обращения Туркменистана о сотрудничестве и оказании помощи в розыске преступников, совершивших теракт. Вместо этого, появились измышления о якобы имевших место массовых арестах и других нарушениях. Такого рода заявления, не имеющие ничего общего с реальной действительностью, вызывают крайнее возмущение туркменской стороны. Туркменская сторона считает, что в таком важном деле, как борьба с терроризмом нельзя допускать элементов политики двойных стандартов, свидетельством которого является подготовленный отчет докладчика Э.Деко.

Действия инициаторов использования Московского механизма идут также вразрез с принятой Советом Безопасности ООН 19 января 2003 года Декларацией по борьбе с терроризмом. В данном документе Совет Безопасности ООН призвал все государства «максимально помогать друг другу в предотвращении, расследовании, преследовании и наказании актов терроризма, где бы они не происходили». Кроме того, Совбез ООН призвал все государства «передать правосудию тех, кто финансирует, планирует, поддерживает и осуществляет теракты или обеспечивает их прикрытие, в соответствии с нормами международного права, в частности, на основе принципа экстрадиции или юридического преследования на территории самих этих государств».

Туркменистан, как государство, чей нейтральный статус признан ООН, всегда следовал этим принципам и впредь будет их строго соблюдать. С этой точки зрения справедливое негодование туркменской стороны вызывает то, что представительства отдельных государств при ОБСЕ, не решая главных вопросов сотрудничества в сфере борьбы с преступностью, т.е. оказания друг другу содействия в задержании, привлечении к ответственности и наказании преступников, ставят вопросы, связанные с проведением процедур направления миссий экспертов для выяснения необоснованных сведений.

Туркменистан еще раз решительно заявляет о неприемлемости такого подхода, основанного на недоверии к нему как к равноправному партнеру.

Таким образом, Туркменистан выражает недоверие к отчёту докладчика Э.Деко, который именуется себя «беспристрастным» и «облаченным соответствующим мандатом со стороны ОБСЕ». Э.Деко не сумел и, скорее всего, не имел намерения вникнуть в суть событий, связанных с покушением на главу туркменского государства. Этот вывод очевиден, когда он пишет в своём отчете о том, что якобы обстоятельства покушения «окружены тайной».

Лично по инициативе Президента Туркменистана С.А.Ниязова, ход предварительного следствия и полная картина событий 25 ноября 2002 года были доведены до сведения общественности. В ходе следствия установлено, что это была заранее спланированная и отработанная в организационном и финансовом плане попытка совершения государственного переворота, которая преследовала цель установления диктатуры. Причём её подготовка была проведена за границей. В этой преступной акции участвовало значительное число лиц, в том числе и иностранцев, впоследствии привлечённых к уголовной ответственности.

Следствие по данному уголовному делу проводилось в строгом соответствии с национальным законодательством Туркменистана и нормами международного права. На основании детального изучения фактов, вещественных доказательств и обстоятельств совершенного преступного деяния была установлена степень вины каждого участника преступления. Окончательные результаты расследования были доложены на заседании высшего представительного органа народной власти страны – Народного Совета Туркменистана 30 декабря 2002 года.

Народный Совет дал политико-правовую оценку произошедших событий, на нём были подведены итоги состоявшегося расследования, приняты важные государственные решения, нацеленные на укрепление безопасности страны, законности и правопорядка. В ходе его работы все участники этого Форума единогласно выступили с резким осуждением террористического акта и призвали привлечь преступников, его совершивших, к самой суровой ответственности.

То, что члены преступного сообщества поставили первой задачей покушение на жизнь Президента Туркменистана, а задачей номер два был насильственный захват власти в Туркменистане, изменение его конституционного строя, полностью подтверждается показаниями обвиняемых, а также результатами очных ставок, приобщенных к делу вещественных доказательств, других собранных материалов.

Кроме доклада туркменской делегации в штаб-квартире ОБСЕ в Вене 22 января 2003 года, официальная позиция Туркменистана четко была выражена со стороны МИД Туркменистана в письме от 31 января 2003 года, направленного в офис Председателя ОБСЕ. Ещё раз констатируя необходимость сотрудничества по принципиальным вопросам в борьбе с терроризмом, Туркменистан решительно заявил о неприемлемости односторонних действий со стороны отдельных членов ОБСЕ.

Туркменистан решительно отвергает такого рода «отчёт», содержащий не столько факты, сколько сфабрикованные обвинения в свой адрес и считает абсолютно неприемлемым так называемые «рекомендации» для ОБСЕ и других международных организаций, а сам факт появления такого «отчёта», как неуважение к нашей стране, являющейся равноправным членом ОБСЕ.

Туркменистан никогда не допустит необоснованных высказываний, а тем более действий в свой адрес и будет требовать уважительного отношения к себе.

Unofficial translation

On the Report of the Rapporteur E.Decaux

Turkmenistan, being an equal OSCE participating State, expresses a resolute disagreement with the ongoing attempts to exert pressure on Turkmenistan, which have been initiated from the side of representatives of a number of OSCE participating States in connection with the investigation of a terrorist act committed on November 25th, 2002, in Ashkhabad.

Following its OSCE commitments and in the framework of procedural rules and regulations, the Turkmen side in a timely and comprehensive fashion informed all the OSCE institutions concerned with the issue of the investigation of the criminal case on the attempt of the forcible seizure of power and the change of the constitutional order in Turkmenistan through carrying out a terrorist act and the attempted assassination of the President of Turkmenistan.

Not taking the position of Turkmenistan as an equal participating State into account, as well as ignoring the exhaustive information presented from its side on the relevant issue, the certain 10 OSCE member state in a unilateral manner have appointed a rapporteur. The haste shown from their side does not promote fruitful co-operation and, by putting a clearly political shading on their report, eliminates the international legal basis of the issue concerned.

The result of ignoring the good will of Turkmenistan for co-operation and dialog is the breach by the initiators of this procedure of the main requirement of the Document of the Moscow Meeting of the Conference on the Human Dimension of the OSCE in 1991, expressed in the Article 17, where it is explicitly stated that “the participating States:

- condemn unreservedly forces which seek to take power from a representative government of a participating State against the will of the people as expressed in free and fair elections and contrary to the justly established constitutional order;
- will support vigorously, in accordance with the Charter of the United Nations, in case of overthrow or attempted overthrow of a legitimately elected government of a participating State by undemocratic means, the legitimate organs of that State upholding human rights, democracy and the rule of law, recognising their common commitment to countering any attempt to curb these basic values”.

Therefore, the aforementioned unilateral actions so far do not justify the expectations and hopes of Turkmenistan on the comprehensive co-operation while discussing the issue of the terrorist act committed in Ashkhabad on November 25th, 2002, and condemning the actions of the criminals.

Turkmenistan entered the Organization for Security and Co-operation in Europe on January 30th, 1992. On July 8th of the same year Turkmenistan signed the Final Helsinki Act of 1975, demonstrating its commitment to the principles of humanism and co-operation, as well as its readiness for the wide international partnership. Turkmenistan follows the central principle

of co-operation in the OSCE framework, according to which, all the participating States have equal status, equal voting right and all the decisions are taken on the basis of consensus.

From its first days of participation in OSCE, as a full member Turkmenistan firmly follows the rules and principles of this international organisation and accurately fulfils its obligations. As President of Turkmenistan S.A. Niyazov stated in his address at the highest level meeting of the participating States of the OSCE on July 10th, 1992 in Helsinki: “Turkmenistan declares with full responsibility, that it will honestly and openly co-operate with all states, which act in the name of lofty aims standing before the global community. Non-interference in the internal affairs of other states, positive neutrality – this is the course of policy, from which independent Turkmenistan takes its lead”.

Turkmenistan remains faithful to the principle, whose essence was proclaimed by President S.A.Niyazov at the same summit in Helsinki: ”In the conditions of modern development in international relations, it is necessary more than ever to hold to the precise rules of behaviour, that are determined by the ten principles of the Final Act. Turkmenistan considers that only political consultations, good will and flexibility will give an opportunity for the civilised settlement of disputes and conflicts”.

The proof of the consistency of the course of Turkmenistan is apparent in the very fact that after the events of November 25th the Turkmen side immediately turned to the foreign states and international organisations with a request for assistance in solving this crime and the detention of the criminals. Repeated inquiries with requests for assistance in the search and the detention of the criminals were subsequently repeatedly addressed to the foreign states, the European countries in the first place. Unfortunately, such assistance was not provided, although Turkmenistan constantly proves in action its readiness and willingness to co-operate with the OSCE participating States and other countries in the sphere of fight against crime and terrorism. While carrying out investigation on the mentioned terrorist act, Turkmenistan invited for co-operation the law-enforcement agencies of other states and international organisations.

Turkmenistan, demonstrating its good will and being guided by the principles of friendship and co-operation, universally recognised by the global community, was the first to show initiative on the extradition of the criminals of the number of foreign mercenaries to those states of which they are citizens. Such an example once again underlines that Turkmenistan strictly follows the principles and rules of the international law and acts on the basis of the acquired positive experience in the practice of international relations.

Unfortunately, a number of member States, replying to repeated appeals to them from the Turkmen side, embarked upon the path of destructivism, putting the actions of terrorist in a political light to the actions of terrorists, who committed an especially grave crime against the state and its recognised leader. In their most concentrated form these attempts have been expressed in the so-called “report” of the rapporteur Mr. E.Decaux, who allegedly was collecting materials and studied the substance of the issue during his small tour of Europe with brief stops in Vienna (2 days), Warsaw (2 days) and in the Hague (2 days).

This information has nothing in common with the objective aims and tasks of the OSCE as an international organisation that is called upon to ensure dialog and co-operation of the states in the name of security and peace.

In addition, rapporteur E.Decaux in his report greatly exceeds the limits of his authority and lists the information that does not correspond to the facts on alleged mass arrests, resettlement of the national minorities, difficult conditions in the places of imprisonment, collected on the basis of biased reports and unreliable sources. E.Decaux himself is giving evidence about the contradictory nature of the report drawn up, when writing that he was authorised “to focus the attention on the consequences of the events of November 25th, and not to give the general evaluation of the situation in human rights in Turkmenistan, for example, of the freedom of the society, rights of the minorities or the economic, social or cultural rights of the population”.

The “report” of the rapporteur E.Decaux is testimony to the existence of actions targeted at creation of the situation in the OSCE that could lead to a weakening of the unity and mutual understanding of its participants. As we imagine, one of the goals of such actions is an attempt to review the established principles of the international co-operation, traditions of mutual respect and non-interference into the internal affairs of other states.

The “report” of the rapporteur E.Decaux, hastily compiled according to the previously prepared templates, does not hold against criticism and is particularly biased. Those one-sided conclusions and recommendations, which the report contains, are in no way different from, and often repeating the fabrications of the “yellow press” that cannot be considered a source of objective information. In this regard, the Turkmen side expresses its indignation towards the unobjective attitude and biased coverage of the situation in Turkmenistan from the side of the OSCE rapporteur. Besides, it is perplexing that the OSCE displays tranquillity with respect to a number of the European participating States on whose territories the especially dangerous criminals officially declared as being the subject of an interstate search by the Turkmenistan are situated and freely moving.

The Turkmen side in timely fashion, provided the OSCE with exhaustive information on the course of the preliminary investigation of a grave crime committed on November 25th, 2002, by the group of international terrorists with the aim of a forcible seizure of power and changing the constitutional order in Turkmenistan through an attempt on the life of the head of the state and by carrying out terrorist acts. Besides, in the course of the address of the delegation of Turkmenistan on January 22nd, 2003, in the headquarters of OSCE in Vienna, representatives of the participating States concerned had an opportunity with their own eyes to get acquainted with photo, video and other materials on the fact of the committed terrorist act, which indicates that the investigation of the criminal case in question was conducted in the strict compliance with law and international norms.

The report of E.Decaux does not contain anything new from the point of view of addresses and statements of made by representatives of certain countries prior to the report, from whose side any constructive proposals or steps were never made towards meeting the requests of Turkmenistan for co-operation and for rendering assistance in the search of the criminals who committed the terrorist act. Instead, fabrications appeared on the mass arrests carried out and other violations. Such statements, that have nothing in common with the

reality, raise extreme indignation of the Turkmen side. The Turkmen side considers that in such an important cause as the fight against terrorism, one cannot afford the policy elements of a double standards policy, the evidence of which is the report prepared by the rapporteur E.Decaux.

The actions of the initiators of use of the Moscow mechanism fly in the face of the Declaration on the Fight against Terrorism adopted by the UN Security Council on January 19th, 2003. In this document the UN Security Council called upon all States to “maximally help each other in the prevention, investigation, prosecution and punishment of the acts of terrorism wherever they would take place”. Besides, the UN Security Council called upon all states “to bring to the justice those, who finance, plan, support and carry out terrorist acts and ensures their cover, in accordance with the norms of the international law, in particular, on the basis of the principle of extradition or the legal persecution on the territory of those states”. Turkmenistan, as a State, whose neutral status is recognised by the UN, has always followed these principles and will comply with them henceforth. From this point of view the just indignation of the Turkmen side is a result of the fact, that the representations of certain states at the OSCE, while not solving the main issues on co-operation in the sphere of the fight against crime, for example rendering assistance to each other in the detention, bringing to justice and punishing of criminals, raise questions related to carrying out the procedures of sending the expert missions for the clarification of groundless information.

Turkmenistan once again resolutely declares that such an approach, based on the distrust of it as for an equal partner, is unacceptable

Therefore, Turkmenistan has no confidence in the report of the rapporteur E.Decaux, who calls himself "impartial" and “carrying the respective mandate from the side of the OSCE”. E.Decaux did not manage and, most probably, did not have any intention to investigate thoroughly the events related to the attempt upon the life of the head of the Turkmen state. This conclusion is obvious, when he writes in his report that the circumstances of the attempted assassination are “shrouded in secrecy”.

Following the personal initiative of the President of Turkmenistan S.A.Niyazov, the course of the preliminary investigation and the full picture of the events of November 25th, 2002, were made public. In the course of the investigation it was established that it had been previously planned and worked through in organisational and financial sense attempt of the *coup d'état*, having an aim of establishing a dictatorship. Moreover, its preparation was carried out abroad. A considerable number of persons participated in this criminal action, including foreigners, against whom criminal proceedings were instituted.

The investigation of the given criminal case was carried out in strict compliance with the national legislation of Turkmenistan and the norms of the international law. The degree of guilt of each of the participants in the crime was established on the grounds of the detailed study of the facts, material evidence and circumstances of the committed criminal act. The final results of the investigation were reported on the meeting of the highest representative organ of people’s power of the state – the People’s Council of Turkmenistan on December 30th 2002.

The People's Council gave a political and legal evaluation of the events that took place, at this meeting the results of the investigation that took place were summed up, important state decisions were taken aimed at the enforcement of the security of the country, law and order. In the course of its work all the participants of this Forum unanimously took a stand with their sharp condemnation of the terrorist act and called for bringing the criminals who committed it to the most severe responsibility.

The fact that the members of the criminal community set as their first task the attempt on the life of the President of Turkmenistan, and that the task number two was the forcible seizure of the power in Turkmenistan, changing of its constitutional order, is fully supported by the testimonies of the accused, as well as by the results of the confrontations, material evidence of the case, other collected materials.

Besides the report of the Turkmen delegation at the headquarters of the OSCE in Vienna on January 22nd, 2003, the official position of Turkmenistan was precisely expressed by the Ministry of Foreign Affairs of Turkmenistan in the letter of January 31st, 2003, sent to the office of the Chairman of the OSCE. Once again establishing the necessity of co-operation on the fundamental issues of fight against terrorism, Turkmenistan has resolutely declared that the unilateral actions from the side of certain members of OSCE are unacceptable.

Turkmenistan resolutely rejects the "report" of this kind that contains not so much the facts, as fabricated accusations against it and considers as absolutely unacceptable the so-called "recommendations" for the OSCE and other international organisations, and the very fact that such a "report" appeared, as a show of disrespect for our country, which is an equal member of the OSCE.

Turkmenistan will never allow the groundless statements, moreover, actions in its address, and will demand a respectful attitude towards itself.