

EXTERNAL

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THE DEATH PENALTY IN THE BALTIC STATES

Estonia, Latvia, Lithuania

During the period 1988-91 the three Baltic states - Estonia, Latvia and Lithuania - regained their independence after half a century of incorporation into the Soviet Union. The State Council of the Soviet Union recognized their independence in September 1991 and all three states were admitted to the United Nations in the same month. The three countries had, however, begun the process of restoring their independence much earlier, and already by the Spring of 1990 the respective parliaments in each of the three republics had proclaimed the supremacy of their own laws over those of the USSR.

All three countries have retained the death penalty in their criminal codes, although the number of crimes punishable by death has been reduced in all instances from that applying under the old Soviet legislation. The death penalty is carried out in all three countries by shooting. However, procedures surrounding executions are secret and it was only during a visit to the Baltics in October 1992 that Amnesty International was able to obtain any information about the execution of sentences. All the executions that have taken place in recent years have been for the crime of aggravated murder.

At present, Estonia, Latvia and Lithuania are all in the process of legislative and judicial reform and these reforms could affect the future use of the death penalty in the Baltic states.

ESTONIA

Five death sentences have been passed in Estonia since July 1988. Two sentences have been commuted, one execution has been carried out and two are pending. A newly revised criminal code entered into force in Estonia in June 1992. The new code retains the death penalty for three crimes: aggravated murder, acts of terrorism and assassination. In July 1992 the then Prime Minister of the Republic of Estonia informed Amnesty International that given "*the complexity of criminal circumstances at present...[the Estonian parliament] did not think it possible to abolish [the] death penalty during the first stage of the reform of [the] criminal code. During the second stage when the new criminal law code of the Republic of Estonia will be adopted it is planned to abolish the death penalty.*" However, it is thought that the adoption of a fundamentally new criminal code could take several years.

According to information received in June 1992 from the Chairman of the Supreme Court, the death penalty may not be imposed on persons aged under 18 or over 65, nor may it be imposed on women. The Chairman of the Supreme Court also informed Amnesty International that the mental health of a person tried for a capital offence is taken into account

before the sentence is passed and before the execution is due to be carried out. No further information, however, is available about this.

During Amnesty International's visit to Estonia in October 1992, the organization was told that a condemned individual learns that his petition for clemency has been rejected only when he is taken from his cell to be executed. He is therefore denied the opportunity of a final visit from his family or others close to him.

LATVIA

In Latvia, 18 executions have been carried out since the beginning of 1989, when statistics on the use of the death penalty were first made public. The most recent to have taken place was in May 1992. A total of five death sentences were passed in 1992, four of which were commuted. Seven crimes are punishable by death in Latvia: aggravated murder, banditry, actions disrupting the work of correctional labour institutions, counterfeiting under aggravating circumstances, rape under particularly aggravating circumstances, the hijacking of an aeroplane under particularly aggravating circumstances.

It is not known what provision exists in capital trials in Latvia for considering reduced accountability as a mitigating factor. In September 1991 a 28-year-old ethnic Russian was sentenced to death for murder after pleading guilty to the charge. He was executed in May 1992. Allegations that he had a history of mental illness since childhood and that this was not considered as a mitigating factor at the time of his trial were denied by the Latvian authorities.

During Amnesty International's visit to Latvia the delegation was informed by an official from the Ministry of Internal Affairs that executions are generally carried out in the investigative isolation unit of Riga Central Prison, usually within 24 hours of the rejection of a petition for clemency. The condemned person is called out from his cell during the night and is shot by a single marksman. Procedures for executions are laid down in joint instructions issued by the Ministry of the Interior and the Procurator General. They are not made public.

The criminal code in Latvia is currently under review, with a new draft code in preparation. It is expected that it could take up to five years to complete the drafting of the new criminal code. Amnesty International has repeatedly called for the abolition of the death penalty in letters to the Latvian authorities. The authorities have responded that this would be taken into account in the current review of the criminal code.

LITHUANIA

Five death sentences have been passed in Lithuania since March 1990 when Lithuania first declared its independence. Two of the sentences were commuted following the submission of a petition for clemency, one was overturned on appeal, one person committed suicide and the fifth sentence was carried out. Only one crime - aggravated murder - is punishable by death. According to the Ministry of Justice, the death penalty cannot be imposed on a person deemed to have been mentally ill or mentally retarded either at the time of the offence or at the time of sentencing.

No information on the procedures governing executions is available to Amnesty International. In August 1992 the Chairman of the Parliamentary Committee for Civil Rights and Nationalities' Affairs informed Amnesty International that "*we intend to organize an opinion poll and [to] try to achieve that the people of Lithuania thoroughly discuss all the aspects of [the death penalty].*"

A working committee has been charged with drafting a new criminal code in Lithuania. It is unclear what its conclusions on the death penalty might be or when its work will be completed.

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Estonia, Latvia and Lithuania have all considerably reduced the number of crimes punishable by death since their independence from the USSR where the number of crimes punishable by death was 18. Amnesty International believes that as part of the process of reform of the criminal codes and judicial systems in the Baltics, serious consideration should be given to the abolition of the death penalty. To this end, Amnesty International would welcome debate about the current application of the death penalty in all three countries. Currently little detailed information is available about judicial practices in capital trials and virtually nothing about procedures for executions. It is unclear in Latvia and Lithuania, for example, whether the right to appeal to a higher court against conviction and sentence is guaranteed under current law. In both countries the Supreme Court acts both as the court of first instance and as the court of appeal. No public information is available in any of the three countries about who is present at executions or what role is played by doctors in the process.

Prior to the independence of the Baltic states, the former USSR was engaged in legal reform to limit the scope of the death penalty and in December 1989 voted in favour of a UN resolution adopting the Second Optional Protocol to the International Covenant on Civil and Political Rights, which is the first treaty of worldwide scope aimed at abolition of the death penalty. Regrettably it was often the case in the former USSR that relatives of the condemned were not informed of when death sentences had been carried out, much secrecy surrounded capital punishment and there were concerns about shortcomings in the legal system.

The restoration of independence in the Baltic states and the process of legislative and judicial reform currently under way provide a unique opportunity for the Baltic states to debate the fundamental issues surrounding the death penalty and to move towards abolition. Within Europe, 31 countries have abolished the death penalty, either in law or in practice. Eight European countries have abolished it for all offences in the period since 1989 and in three countries which still retain the death penalty in law, there has been a declared or *de facto* moratorium on executions.

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To: Medical professionals
From: Medical Office / Research Department - Europe
Date: 8 March 1993

MEDICAL LETTER WRITING ACTION

The death penalty in the Baltic States (Estonia, Latvia and Lithuania)

Keywords

Theme: Death penalty

Summary

Since regaining their independence, Estonia, Latvia and Lithuania have begun a program of legislative and judicial reform. All, however, currently retain the death penalty. Amnesty International is unconditionally opposed to the death penalty and is urging the three Baltic states to give serious consideration to abolition of the death penalty while their judicial systems and criminal codes are under review. Please see the details attached.

Recommended Actions

Letters are requested from medical professionals to the addresses below.

■ To the Ministers of Health

- introduce yourself as a member of Amnesty International, stating that you are aware that a program of legislative and judicial reform is currently under way and that you are writing in support of abolition of the death penalty
- seeking information on the way in which the death penalty is carried out, who is present at the execution, what role is expected of doctors in executions and exactly what provision exists in law for admission of evidence of mental illness as a mitigating factor at the time of trial and in any subsequent appeal hearings
- asking the Minister to use whatever influence he (or she) has to positively influence any debate on the death penalty and in particular to make clear that health personnel should play no part in this punishment

■ **To Medical Association or professional body**

- introducing yourself as a member of Amnesty International and briefly raising the points outlined above
- seeking information on attitudes amongst the medical profession towards capital punishment and ask whether there has been any debate on the death penalty or on particular ethical issues it raises for the medical profession (e.g. the presence of doctors at executions or the provision of medical care to prisoners awaiting execution)

Addresses

Estonia

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