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EXTERNAL

23 August 1993

Arkady AYRIYAN  
(in cyrillic \_\_\_\_\_)

Azerbaijani Republic

According to unofficial sources Arkady Ayriyan, an ethnic Armenian, has been sentenced to death in the Azerbaijani Republic. The charge as well as the date and the place of the death sentence are not known. It is not known whether Arkady Ayriyan has lodged an appeal against the sentence. The charge against him is presumably connected with the current armed conflict in the disputed region of Nagorno-Karabakh, an area administratively part of Azerbaijan but populated mainly by ethnic Armenians seeking greater autonomy. Although the information relating to the case of Arkady Ayriyan is scarce, Amnesty International believes that it is reliable.

Arkady Ayriyan was born in 1951. He comes from the village of Nitky Noratakh in the Mardakert district of the disputed region of Nagorno-Karabakh. He was reportedly first held in the prison of the state security body in Baku after his arrest, where he was nicknamed Ayriyan-Napoleon. It is not clear whether he is still held in the same prison.

Amnesty International takes no position on territorial disputes. The organization is opposed to the death penalty in all cases and without reservation on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights. Amnesty International is appealing to the Chairman of the Milli Mejlis of Azerbaijan to exercise his authority to commute the death sentence passed on Arkady Ayriyan.

#### Background information

Death sentences are regularly passed in the Azerbaijani Republic. The most recent available figures on its application were given to an Amnesty International delegation by an official of the Supreme Court in October 1992. According to this material, at that time 76 people had been sentenced to death since 1986, including 18 people in the first half of 1992. All but two convictions were for premeditated, aggravated murder. The exceptions were for sabotage and the attempted murder of a police officer. Thirty-four people were executed between 1986 and 1990, all for premeditated, aggravated murder, but no executions were reported to have been carried out since then. A further seven death sentences have come to light since those figures were given. No executions have been reported, although one prisoner on death row is said to have hanged himself in February 1993. At least one death sentence was commuted in the past six months. Lieutenant Yevgeny Lukin, an ethnic Russian army officer, was sentenced to death for murder in August 1992 but was pardoned and returned to Russia at the end of December that year.

The Azerbaijani Criminal Code retains the death penalty for 18 offences in peacetime. Although some of these such as certain economic crimes do not involve the use of violence, the death

penalty has not been applied for these offences since at least 1986. There are proposals to limit the scope of the death penalty, but these have yet to come before parliament. A death sentence may not be passed on a pregnant woman or on anyone under 18, or ruled to have been insane, at the time of the offence or when sentence is passed.

Although a jury system was introduced after provisions were made for this under a USSR law passed in 1989, it was subsequently suspended and capital cases are still tried by a bench of three judges, of whom only one is professionally trained. A defence lawyer must assist in capital cases. Prisoners can appeal against the verdict or sentence to the next highest court within seven days of receiving a written copy of the judgment. As their cases are heard at a higher level at first instance, however, prisoners under sentence of death have fewer opportunities to appeal than many other prisoners. Some have been sentenced to death without right of appeal: there is no appeals mechanism for those tried by the Supreme Court of Azerbaydzhan, the highest judicial organ, as the court of first instance.

Death sentences may also be reduced by a judicial review. Under this procedure a higher court re-examines the case after it has received a protest against the judgment of the court of first instance or the court of appeal. Although death sentences are suspended pending appeal, they may still be carried out before a judicial review has been completed.

If these remedies fail, prisoners under sentence of death can petition for clemency, which may be granted by the President of the Azerbaydzhani Republic. These petitions are examined first by a clemency department attached to the President's office, and which considers all cases in which a death sentence has been passed, even if the prisoner has not, or refuses to, submit such a petition on his or her own behalf.

Execution is by shooting. Prior to the break-up of the USSR death sentences were carried out in the neighbouring republic of Georgia. The recent halt in executions may in part be connected with the need to set up the necessary procedures and facilities, although the last President, Abulfaz Elchibey, was also said to be opposed to the death penalty in principle.