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REPUBLIC OF GEORGIA

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Introduction

Amnesty International opposes the death penalty in all cases throughout the world, and without reservation, on the grounds that it is a violation of the universally guaranteed right to life. The former Soviet republic of Georgia, like all 15 states which have emerged from the break-up of the USSR, retains the death penalty. Although it was the first such republic actually to abolish this punishment for some offences under its Soviet-era criminal code, Georgia today faces increasing calls to widen the scope of the death penalty. At least 13 people were reported executed in 1993, including seven in November following a temporary decree permitting summary executions.

This present paper examines the background to the death penalty in Georgia, and provides an update to previous material given in the document *Georgia: Alleged human rights violations during the conflict in Abkhazia* (AI Index: EUR 56/07/93). The latter paper also gives general background information on the Republic of Georgia.

Human Rights and the Death Penalty

No matter what reason a government gives for killing prisoners and what method of execution is used, the death penalty cannot be divorced from the issue of human rights. Article 3 of the Universal Declaration of Human Rights proclaims that "Everyone has the right to life". Article 5 categorically states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Amnesty International believes that the death penalty violates these rights.

The death penalty in Soviet Georgia

Georgia was incorporated into the Russian empire at the beginning of the 19th century. Following the Bolshevik Revolution an independent republic was established in May 1918, but in early 1921 it fell to Soviet Red Army forces and Georgia became a union republic of the USSR.

The legal system and criminal codes that developed subsequently were based on centralized Soviet models. Much of classical socialist doctrine has rejected the use of the death penalty and, in conformity with socialist principles, Soviet criminal and penal theory tended formally to give preference to correction and re-education rather than retribution as a means of dealing with offenders and criminality. In spite of this, the judicial death penalty was used throughout most of the history of the USSR except for short periods in 1917, 1920 and 1947 to 1950. Although the death penalty was referred to as "an exceptional measure of punishment" in force only "until its complete abolition", until 1991 it could be imposed under the criminal code of the Georgian Soviet Socialist Republic (SSR) for 30 offences, including peacetime ones not involving the use of violence.

Cases involving a possible death sentence were tried, as throughout the USSR and in other criminal cases, by a bench of three judges, only one of whom was professionally trained. The others were lay judges

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known as "people's assessors" who sat for at most four weeks in two years. Sentence was passed by a majority verdict. Prisoners could appeal against the sentence or verdict to the next highest court, but in some cases tried by the Georgian Supreme Court as the court of first instance prisoners were specifically denied the right to appeal (see below). Death sentences could also be reduced by a judicial review, if the relevant judicial authority lodged a protest, and if all else failed prisoners could petition for clemency. This could be granted by the Presidium of the Georgian Supreme Soviet (parliament), and its USSR equivalent.

Application of the death penalty in Soviet Georgia

All aspects relating to the application of the death penalty in Soviet Georgia were shrouded in secrecy, as elsewhere in the USSR. The following information on how executions were carried out was given to Amnesty International delegates during a visit to Georgia in February 1992 by the then governor of Ortachala Prison in the capital, Tbilisi. The details appear to follow a pattern common to the rest of the Soviet Union. Just prior to execution a number of officials including a doctor, the prison director and a representative from the procuracy were present to witness the reading of the execution order. Execution was by shooting by a single executioner, in a special chamber. Prisoners were not allowed to see their families before the execution, and their bodies were not handed over to the families afterwards, but were buried instead in unmarked graves in the prison grounds.

Executions took place in Ortachala Prison. Prisoners sentenced to death in the neighbouring Soviet republics of Armenia and Azerbaydzhan, which lacked their own facilities, were also sent there for execution. This practice had been discontinued by January 1992, after the break up of the USSR.

Statistics on the death penalty in Soviet Georgia

No official statistics on the application of the death penalty in the Soviet Union were published between 1934 and 1991, and those released for 1991 were not broken down into the constituent republics. To Amnesty International's knowledge the first detailed official statistics made public for Soviet Georgia were those passed to the organization by the then Minister of Justice, an abolitionist named John Khetsuriani, in March 1992. These figures covered the years from 1980 to 1991 and recorded that during this period 124 people were sentenced to death, and 65 people executed. The majority of the sentences and executions were for premeditated, aggravated murder (Article 104 of the Georgian Criminal Code), although the figures also indicated six executions for economic offences not involving the use of violence. The full statistics as given by the Minister are listed in Appendix II.

During the years of Soviet power in Georgia no such figures were available publicly. As in the rest of the USSR reports in the press of individual cases were frequently exemplary, often used to accompany campaigns against crime or to underscore a particular political point. Other information emerged only infrequently, through unofficial channels, and usually only if a case provoked exceptional public controversy. Two such instances in Soviet Georgia are known to Amnesty International, both involving unofficial public petitions calling for clemency.

The first was presented in October 1982 to the Supreme Court of the Georgian SSR and called for a review of the death sentence passed on Georgy Dzhandzhalashvili, who had been convicted of murdering a 19-year-old man in a brawl. The petitioners alleged that the charge against Dzhandzhalashvili had been fabricated by people opposed to his activities as a devout Christian. The appeal's author was Valentina Pailodze, a member of the Georgian Orthodox Church who had a history of imprisonment as a prisoner of conscience.

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In 1984 unofficial sources within the USSR estimated that as many as 3,000 Georgians, including two deputies of the Supreme Soviet (parliament) of the Georgian SSR, had signed a petition appealing against death sentences passed on four young men. German Kobakhidze, Paata Iverieli, his brother Kakha Iverieli and Teymuraz Chikhadze had been sentenced to death on 15 August 1984 by the Georgian Supreme Court after they were convicted of an attempt to hijack an aircraft during which eight people died (see the Amnesty International report *USSR: Petition against death sentences in Georgia*, AI Index EUR 46/01/85).

At least one of the convicted hijackers mentioned above was reported by unofficial sources to have been executed, but the fate of the others remains unclear to Amnesty International.

A measure of the sensitivity surrounding the death penalty in the Soviet era, and indeed any other issues considered politically unacceptable to the authorities, can be seen in the arrest in June 1985 of Georgian Emmanuil Tvaladze, after documents including material on the above hijack and the public protest which greeted the death sentences was found in his flat. He was sentenced in June 1986 to eight year's imprisonment and internal exile for "anti-Soviet agitation and propaganda", but was released early in March 1987.

An independent Georgian policy develops

With the advent in the USSR of "perestroika" and the policy of "glasnost", or openness, a number of formerly taboo subjects began to be discussed in public with less fear of official reprisal. Along with the death penalty these included national aspirations among the constituent republics for greater independence.

In moves away from centralized Soviet authority the republics sought increasingly to take their own legislative initiatives. In the case of Georgia, parliament proclaimed the sovereignty of the Georgian SSR and the primacy of its own laws over those of the USSR in November 1989, and in March the following year it declared invalid the treaties of 1921-22 whereby Georgia had joined the Soviet Union.

Moves towards abolition - Georgia first in the USSR to take steps

Although discussion about the need to limit capital offences had been under way for several years on a federal level, in 1991 Georgia became the first republic in the former USSR to take concrete moves to abolish the death penalty. On 20 March parliament abolished the death penalty for four economic offences not involving the use of violence: making or passing counterfeit money or securities (Article 88 of the Criminal Code), violation of rules for currency translations (Article 89), theft of state or social property on an especially large scale (Article 96-I) and bribe-taking (Article 189).

Several months later a law of 2 August 1991 abolished the death penalty for two further offences: evasion of call-up by mobilization (Article 82) and, interestingly in the light of the petition described above, hijacking of an aircraft (Article 242-2).

Although such moves were echoed by the Soviet parliament, which in July 1991 reduced the scope of the death penalty to five offences and exempted all women (see the Amnesty International report *USSR: Prospects for the Abolition of the Death Penalty*, AI Index: EUR 46/20/91), the time had passed since the constituent republics incorporated all federal legislation into their own laws. The failed coup attempt in Moscow in August 1991 heralded the demise of the USSR by the end of that year, leaving the newly independent states to pursue their own policies.

A moratorium on the death penalty is announced

The first moves towards abolition described above were under the government of President Zviad Gamsakhurdia, who was re-elected overwhelmingly in May 1991 in Georgia's first ever direct presidential election. However, by the end of the year armed conflict had broken out in the capital, Tbilisi and in January 1992 President Gamsakhurdia was deposed. Power passed to a ruling Military Council.

In February that year an Amnesty International delegation visited Tbilisi, and were told by leaders of the Military Council that they intended to impose a moratorium on the death penalty pending discussion of a new criminal code. The delegates were also able to obtain further information on the death penalty from a visit to Ortachala Prison, where prisoners under sentence of death in Georgia are kept. At that time there were nine men awaiting execution. Five of these had been sentenced to death in 1991, and of those two had been sentenced without right of appeal. Although their sentences could have been reduced by a judicial review or a petition for clemency (see above), the former is only possible at the instigation of the relevant judicial authority and the latter only examines mitigating circumstances, rather than reviewing the judgment. Amnesty International then and subsequently urged the authorities to ensure that all those sentenced to death in Georgia had the right to appeal against their sentence to a court of higher

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jurisdiction, in line with internationally accepted legal standards (for excerpts from such standards please see Appendix IV). The names and available details of those on death row as of February 1992 are given in Appendix III.

1921 Constitution restored, death penalty abolished for further offences

The Military Council followed its intention to impose a moratorium by issuing a declaration on 21 February 1992 under which the 1921 Constitution of the briefly independent Georgian Republic was restored. Article 19 of this constitution enshrines abolition of the death penalty.

The following month the Military Council transferred its legislative and executive powers to a newly-created State Council and Eduard Shevardnadze, the former USSR Foreign Minister and Georgia's Communist Party leader in the 1980s, returned to Georgia to become its Chairman. On 3 August 1993 the State Council abolished the death penalty for 14 military crimes, most of which carried a possible death sentence if committed in wartime or a combat situation. These are listed in Appendix I.

The tide turns against abolition

However, to Amnesty International's regret, abolition of the death penalty as enshrined in the constitution did not become incorporated into Georgian legislation. Although the State Council issued a decree of 11 June 1992 instructing the relevant authorities to draw up proposals for bringing legislation into line with the constitution, the decree also made clear that pending any such action the existing legal system and measures of punishment continued to be in force over the territory of Georgia. How this decree affected the nine men on death row in February 1992 remains unclear. Igor Tomilov's relatives in Russia, for example, were still unaware of his fate in December 1993, and to date Amnesty International has not received a reply to any of its inquiries about the men's situation.

Since that time a number of factors including the rising crime rate and armed conflict in Abkhazia, a region in the north-west of Georgia, have increasingly hardened public opinion against abolition of the death penalty and resulted in a reversal of the earlier, welcome trends in this direction. Executions were reported during the fighting over Abkhazia, two new offences carrying a possible death sentence have been introduced into the criminal code, and in November 1993 Eduard Shevardnadze issued a temporary decree permitting summary executions for looters.

Executions in Abkhazia

Armed conflict broke out in Abkhazia on 14 August 1992 when Georgian troops entered the region and took control of the capital, Sukhumi (for background information to this conflict and Amnesty International's concerns see the document *Georgia: Alleged human rights violations in Abkhazia*, AI Index: EUR 56/07/93). Hundreds of lives were reported lost in the fighting, and a number of executions by both Georgian and Abkhazian forces were also said to have taken place.

The first case to come to Amnesty International's attention was that of an ethnic Russian named Vitaly Gladkikh, who according to press reports was sentenced to death on 10 November 1992 by a Georgian military tribunal in Sukhumi. Accused of being a mercenary for the Abkhazian side, he was reportedly executed five days later. A second man was also said to have been sentenced by a similar tribunal around that time. Ethnic Georgian Gia Khachirashvili was reportedly convicted of treason and subsequently shot, although the exact dates are not known to Amnesty International.

Following these reports Amnesty International wrote to a range of Georgian officials seeking clarification
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on the status of these military courts. The organization also asked whether the two men had had access to a defence lawyer of their own choice during the proceedings, and if they had been given the opportunity to lodge an appeal during the reportedly very short time between sentence and execution.

During a visit to London in February 1993 Dr Ramaz Klimiashvili, Deputy Chairman of the Georgian State Committee for Human Rights and Ethnic Relations, told Amnesty International that these executions had taken place without the knowledge or sanction of the Georgian Government, which regarded them as extrajudicial. The then Minister of Justice, Konstantin Kemularia, added in a letter dated 14 April 1993 that the courts martial had been set up by the Georgian military in Abkhazia on their own initiative, that they had immediately been made invalid, presumably by the ruling civil authorities, and that the Procuracy was carrying out an investigation into the cases. Since 10 December 1992 military courts had been in operation in the area, following the same laws as the civil courts. According to the minister the accused in these military courts "usually" had the right to appeal or pardon.

One further reported instance of executions by Georgian forces, before they lost control of Abkhazia in September 1993, is known to Amnesty International. According to press reports three members of the paramilitary organization "Mkhedrioni" (Horsemen) - N. Gelashvili, D. Maysuradze and V. Nikolayevili - together with a Georgian Air Force major, D. Dartsmelidze, were said to have been executed in Georgian-controlled Dranda prison on 19 April 1993 for attempting to seize an aircraft at Sukhumi airport. Amnesty International does not know which court tried them.

Forces loyal to the Abkhazian authorities in the conflict are also said to have carried out executions. Amnesty International expressed its concern about reports that at least 12 people accused of looting were shot in Gagra in early October 1992 by units under the control of the Abkhazian military commandant.

During a visit to London in January 1994 the Procurator of Abkhazia based in Sukhumi, Akri Mikhaylovich Dzhergeniya, confirmed to Amnesty International that the criminal code in force there is that based on the Georgian one and that it retains the death penalty in law. He reported that there were five or six persons under sentence of death in Abkhazia at that time, all convicted of murder. Previously, final appeals and petitions for clemency in such cases were heard by the relevant Georgian officials. However, since the hostilities this has no longer occurred and under the current arrangement in Abkhazia there is no specific body to review petitions for clemency.

Amnesty International has emphasized to the Abkhazian authorities that under international law everyone sentenced to death has the right of appeal to a court of higher jurisdiction, and to seek pardon or commutation of sentence. The organization urged them to take all necessary steps to ensure that an automatic appeal system is established, and that no death sentences may be carried while a review of the case or sentence is pending.

New laws introduced with a possible death sentence

During a visit to London in October 1993 the Chairman of the Georgian Supreme Court, Mindia Ugrekhelidze, confirmed to Amnesty International that the criminal code currently in force is that of the Georgian SSR, dating from 30 December 1960, and that it had not been amended in line with the constitutional provision for abolition. Furthermore in 1993 two new offences carrying a possible death penalty were added to the criminal code, bringing the total of such offences to 12.

The two new offences are "mercenary actions in an armed conflict, or in military operations" (Article 65-I, introduced by a law of 17 March 1993) and "genocide" (Article 66-I, introduced by a law of 8 July 1993). Ethnic tensions in Georgia, and accusations that mercenaries from the Russian north Caucasus were aiding the Abkhazians, may have influenced these changes.

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A list of those offences currently carrying a possible death sentence and those for which it has been abolished, as passed to Amnesty International by the Chairman of the Supreme Court, is given in Appendix I.

Eduard Shevardnadze's decree on summary executions

Several states of emergency were in force in Georgia during 1993. By the end of September 1993 Abkhazian forces had taken control of most of Abkhazia, and the situation in the west of Georgia was further complicated by the return that month of former president Zviad Gamsakhurdia. A brief civil war involving Georgians fighting Georgians ensued, amid allegations that forces from both sides engaged in looting and other crimes, before most of Zviad Gamsakhurdia's supporters fled or surrendered.

Against this background Eduard Shevardnadze issued a decree of 2 November 1993 authorizing, on a temporary basis, measures up to summary execution for cases of banditry and looting in areas of combat activity. Five days after the decree was introduced two armed supporters of Zviad Gamsakhurdia and seven local inhabitants were reported by the Interior Ministry to have been shot dead in Zugdidi for looting. Later that month the commandant of the capital, Tbilisi, was reported as saying that "several" people had been summarily executed during a curfew after refusing to present identification papers.

While recognizing that the decree was aimed at curbing the excesses of police officers and government soldiers accused of violent crimes against the civilian population, Amnesty International immediately expressed its urgent and grave concern that Georgia was violating its obligations under international law by permitting summary execution. Any derogation from obligations relating to human rights and fundamental freedoms during a state of emergency must remain strictly within the limits provided for by international law. Most importantly, the right to life can never be suspended, not even during a state of emergency.

Eduard Shevardnadze has in the past affirmed that Georgia would comply fully with its obligations as a member state of both the United Nations (UN) and the Conference on Security and Co-operation in Europe (CSCE). In addition, the Republic of Georgia is bound by international human rights standards, including the International Covenant on Civil and Political Rights (ICCPR), by virtue of its status as a successor state of the former USSR. Both the ICCPR and the CSCE commitments include unequivocal protection for the right to life.

Furthermore, Resolution 1989/65, adopted by the UN Economic and Social Council (ECOSOC) on 24 May 1989, states that governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws. Exceptional circumstances such as a state of war, internal political instability or any other public emergency may not be invoked as a justification of such executions, which must not be carried out under any circumstances.

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Amnesty International urged Eduard Shevardnadze to rescind any official instructions authorizing summary executions, and instead to take all necessary steps to ensure that any alleged perpetrators of crimes are brought to justice strictly within the bounds of international law. The organization also urged him publically to issue orders making it clear that law enforcement personnel are prohibited from operating a policy of summary executions, and that anyone operating such a policy will be prosecuted. No reply had been received at the time of writing.

The "deterrence" argument for retention

Faced with a soaring crime rate, and increasing calls for firm measures, the argument that the death penalty deters crime is more frequently heard. For example, on 24 December 1993 the Committee on Legislation of the Georgian parliament proposed introducing the death penalty for kidnapping and drug dealing.

Countless men and women throughout the world have been executed on the assumption that their deaths will deter others from crime, especially the crime of murder. Yet study after study in diverse countries has failed to find convincing evidence that the death penalty has any unique capacity to deter others from committing particular crimes. It is wrong to assume that all those who commit such a serious crime as murder do so after rationally calculating the consequences. Murders are often committed in moments of passion, when extreme emotion overcomes reason. They are also committed under the influence of alcohol or drugs, or in moments of panic when the perpetrator is caught in the act of stealing. Some murderers are highly unstable and mentally ill. In none of these cases can fear of the death penalty be expected to act as a deterrent.

There is another serious flaw in the deterrent argument. People who plan serious crimes in a calculated manner may decide to proceed despite the risk in the belief that they will not be caught. Criminologists have long argued that the way to deter such people is not to increase the severity of the punishment but to increase the likelihood of detection and conviction.

In practice the death penalty is an arbitrary punishment. It is irrevocable and always carries the risk that the innocent may be put to death. The irrevocable punishment of death removes not only the victim's right to seek legal redress for wrongful conviction, but also the state's capacity to correct its errors.

Conclusion

Amnesty International welcomed Georgia's moves in 1991 as the first republic of the former USSR to limit the scope of the death penalty, and the steps taken to consolidate this in 1992. The organization naturally regrets greatly the steps that have been taken back from that position since then: the decision not to incorporate immediately the constitutional provision for abolition into its legislation, the introduction of two new laws carrying a possible death sentence, and the deaths of at least nine people following the introduction of the November 1993 temporary decree permitting summary executions.

Amnesty International continues to urge the Georgian authorities to:

- ◆ commute all pending death sentences;
- ◆ take all necessary steps without delay to ensure that the constitutional provision for abolition is enshrined in legislation;

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- ◆ ensure that every prisoner accused of an offence punishable by death is afforded all facilities, including free access to a lawyer of his or her own choice, for a fair trial before an independent, competent and impartial tribunal, and that the rights of the accused are protected at all stages of the judicial process;
- ◆ ensure that everyone sentenced to death has the right to appeal to a court of higher jurisdiction, and to seek pardon or commutation of sentence;
- ◆ rescind any official instructions authorizing summary executions, and instead to take all necessary steps to ensure that any alleged perpetrators of crimes are brought to justice strictly within the bounds of international law;
- ◆ issue publicly orders making it clear that law enforcement personnel are prohibited from operating a policy of summary executions, and that anyone operating such a policy will be prosecuted;
- ◆ clarify the fate of the prisoners on death row as of February 1992;
- ◆ issue detailed statistics on the application of the death penalty. UNESCO resolution 1989/64, on Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, urges Member States to publish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted.

APPENDIX I

INFORMATION ON THE DEATH PENALTY IN THE CRIMINAL CODE OF THE REPUBLIC OF GEORGIA, PROVIDED TO AMNESTY INTERNATIONAL BY THE CHAIRMAN OF THE SUPREME COURT IN OCTOBER 1993

I. Offences currently carrying a possible death sentence

The criminal code currently in force in Georgia is that dating from 30 December 1960. Up until 1991 it contained a total of 30 offences carrying a possible death sentence, including some peacetime offences not involving violence. Since that time the death penalty has been abolished for 20 offences (see section II), and two new offences carrying a possible death sentence have been introduced. The offences which at present carry a possible death sentence are listed below. All except Articles 65-I and 66-I originate from the 1960 Criminal Code:

1. Article 65 Treason
2. Article 65-I Genocide (Law of 8 July 1993)
3. Article 66-I Mercenary actions in an armed conflict, or in military operations (Law of 17 March 1993)
4. Article 67 Espionage
5. Article 68 Terrorist act against a representative of a foreign state
6. Article 69 Sabotage
7. Article 78 Banditism
8. Article 78-I Actions disrupting the work of corrective labour institutions
9. Article 104 Premeditated, aggravated murder
10. Article 117 Rape
11. Article 209-I Attempt on the life of a police officer or people's guard
12. Article 258 Resisting a superior or compelling him to violate official duties

II. Offences for which the death penalty has been abolished:

1. Article 82 Evasion of call-up by mobilization (Law of 2 August 1991)
2. Article 88 Making or passing counterfeit money or securities (Law of 20 March 1991)
3. Article 89 Violation of rules for currency transactions (Law of 20 March 1991)
4. Article 96-1 Theft of state or social property on an especially large scale (Law of 20 March 1991)
5. Article 189 Bribe taking (Law of 20 March 1991)
6. Article 242-2 Hijacking of an aircraft (New wording of 2 August 1991)
7. Article 256 Insubordination (Decree of the State Council of the Republic of Georgia of 3 August 1992)
8. Article 260 Forcible actions against a superior (Decree of the State Council of the Republic of Georgia of 3 August 1992)
9. Article 265 Desertion (Decree of the State Council of the Republic of Georgia of 3 August 1992)
10. Article 266 Unwarranted abandonment of a unit in a combat situation (Decree of the State Council of the Republic of Georgia of 3 August 1992)
11. Article 269 Intentional destruction or damaging of military property (Decree of the State Council of the Republic of Georgia of 3 August 1992)
12. Article 273 Violation of service regulations for guard duty (Decree of the State Council of the Republic of Georgia of 3 August 1992)
13. Article 275 Violation of rules for performing combat lookout (Decree of the State Council of the Republic of Georgia of 3 August 1992)
14. Article 278 Abuse of authority, exceeding authority, and neglectful attitude toward duty (Decree of the State Council of the Republic of Georgia of 3 August 1992)
15. Article 279 Surrendering or abandoning to the enemy means of waging war (Decree of the State Council of the Republic of Georgia of 3 August 1992)
16. Article 280 Abandonment of a sinking warship (Decree of the State Council of the Republic of Georgia of 3 August 1992)
17. Article 281 Unwarranted abandonment of a battlefield or refusal to use a weapon (Decree of the State Council of the Republic of Georgia of 3 August 1992)
18. Article 282 Voluntary surrender into captivity (Decree of the State Council of the Republic of Georgia of 3 August 1992)
19. Article 284 Pillage (Decree of the State Council of the Republic of Georgia of 3 August 1992)
20. Article 285 Force against the population in an area of military operations (Decree of the State Council of the Republic of Georgia of 3 August 1992)

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APPENDIX III

PRISONERS ON DEATH ROW IN GEORGIA VISITED BY AN AMNESTY INTERNATIONAL DELEGATION IN FEBRUARY 1992

Information as given by the prisoners:

- ◆ Ali DUGANOV, in his fourth year on death row.
- ◆ Igor Arkadyevich TOMILOV, sentenced to death on 25 October 1989 in Gagra by the Supreme Court of the Abkhaz Autonomous Soviet Socialist Republic (ASSR) after being convicted of premeditated murder (Article 104), attempt on the life of a policeman (Article 209) and banditism (Article 78). Prior to the delegation's visit Igor Tomilov's was the only individual case previously known to Amnesty International at that time.
- ◆ Alim Vladimirovich ABUKHBA, sentenced to death on 10 December 1989 in Sukhumi by the Supreme Court of the Abkhaz ASSR. His appeal to the Georgian Supreme Court had been turned down.
- ◆ Gela Otarovich CHUMBORIDZE, sentenced to death on 3 May 1991 by the Georgian Supreme Court for premeditated murder (Article 104).
- ◆ Vladimir Ivanovich CHUTLASHVILI, sentenced to death on 16 May 1990 by a court in Tbilisi for premeditated murder (Article 104).
- ◆ Ali Aidin ogly ALIYEV, aged 24 from Azerbaydzhan, sentenced to death on 18 April 1991 by the Georgian Supreme Court in Tbilisi for premeditated murder (Article 104)
- ◆ Vladimir Aslanovich ASLAMEZISHVILI, sentenced to death on 22 November 1991 in Tbilisi by the Georgian Supreme Court.
- ◆ Malkhaz LOMIDZE, sentenced to death without right of appeal on 4 December 1991 by the Georgian Supreme Court in Tbilisi.
- ◆ Badri Vakhtangovich MATSONADZE, sentenced to death without right of appeal on 5 December 1991 by the Georgian Supreme Court sitting in Kareli for premeditated murder (Article 104).

APPENDIX IV

EXTRACTS FROM INTERNATIONAL HUMAN RIGHTS STANDARDS RELATING TO THE DEATH PENALTY

Universal Declaration of Human Rights (selected articles)

Article 3

Everyone has the right to life, liberty and security of person.

International Covenant on Civil and Political Rights (selected articles)

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

UNESCO Resolution 1984/50: Safeguards guaranteeing protection of the rights of those facing the death penalty (selected articles)

Annex

4. Capital punishment may be imposed only when the guilt of the person charged is based on clear and convincing evidence leaving no room for an alternative explanation of the facts.

6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

UNESCO resolution 1989/64: Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty (selected articles)

Article 1

Recommends that Member States take steps to implement the safeguards and strengthen further the protection of the rights of those facing the death penalty, where applicable, by:

b) Providing for mandatory appeals or review with provision for clemency or pardon in all cases of capital offence;

c) Establishing a maximum age beyond which a person may not be sentenced to death or executed;

Article 5

Urges Member States to publish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted.

United Nations Economic and Social Council Resolution 1989/65 of 24 May 1989: Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (selected articles)

Article 1

Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out in any circumstances.... This prohibition shall prevail over decrees issued by government authority.

Article 6

Governments shall ensure that persons deprived of their liberty are held in officially recognized places of custody, and that accurate information on their custody and whereabouts, including transfers, is made promptly available to their relatives and lawyer or other persons of confidence.

Article 9

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There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances.

Article 18

Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary and summary executions in any territory under their jurisdiction are brought to justice...This principle shall apply irrespective of who and where the perpetrators or the victims are, their nationalities or where the offence was committed.

United Nations General Assembly Resolution 32/61 of 8 December 1997 (selected article)

Article 1

[The General Assembly] Reaffirms that... the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment.

Georgia: The death penalty - an update

Council of Europe: Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms Concerning the Abolition of the Death Penalty (selected article)

Article 1

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Georgia: The death penalty - an update

APPENDIX II

STATISTICAL INFORMATION ON THE DEATH PENALTY IN THE GEORGIAN SSR 1980-1991

(as given to Amnesty International by the then Minister of Justice John Khetsuriani in March 1992)

	Number of persons sentenced to death	Number of persons executed
Articles	7896-1104117189209	7896-1104117189209

1980 491131

198141161151

19824112248

198312114111

1984416

1985 142

198637124

1987411

1988511

198961

19904

1991 712

In total from 1980 to 1991, 124 persons were sentenced to death* and 65 persons were executed.

*AI note: the number of those sentenced to death as listed above is greater than the total of 124 given by the Ministry of Justice, presumably because some people may have received the death sentence for more than one crime (for example the rape and subsequent murder of a minor). No information was given on commutations.