

EXTERNAL

4 June 1992

@Gennady KONSTANTINOV

£Kazakhstan

The information currently available on this case comes from an unofficial source, which reports that Gennady Konstantinov was sentenced to death on 25 December 1990 by the regional court in Aktyubinsk in north west Kazakhstan. He was convicted of the rape and murder of a minor. His death sentence was upheld on appeal to the Supreme Court of Kazakhstan in June 1991 and although a further hearing was pending before the Supreme Court of the USSR, this body was disbanded before his case could be considered, following the USSR's demise. He is now awaiting the outcome of a petition for clemency addressed to President Nursultan Nazarbayev.

Gennady Konstantinov is 52 years old, and is of ethnic Russian origin. He denies the charges on which he was convicted.

Amnesty International opposes 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 and degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights. Amnesty International is appealing to the authorities in the Republic of Kazakhstan to commute the death sentence passed on Gennady Konstantinov.

Background information

The Kazakhstan Criminal Code retains the death penalty for 18 offences. However, senior officials at the Kazakhstan Ministry of Justice informed Amnesty International in April 1992 that no one has been executed for economic crimes in the past 10 years. Statistics shown to Amnesty International revealed that between 1987 and 1991 the death penalty had been applied for only four offences: murder under aggravating circumstances, rape, threatening the life of a police officer, and banditism.

In 1991, 66 people were sentenced to death for murder, and one person for threatening the life of a police officer. To date at least 26 of those death sentences have been commuted. The figure for the number of executions carried out in 1991 has not been made available to Amnesty International. Execution is by shooting.

Although there is discussion about the introduction of a jury system, capital cases are currently tried by a bench comprising a judge and four "people's assessors", who are without legal training. 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 judgement. 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.

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 judgement 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 Republic of Kazakhstan. Following the break-up of the Soviet Union such prisoners no longer have the opportunity for a judicial review or petition to be considered by the federal USSR authorities, and have thereby lost a possible final avenue for commutation. Prior to this legal authorities estimated that it could take some two years for a death penalty case to reach resolution.