

AMNESTY INTERNATIONAL TAJIKISTAN: APPEAL CASES

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Death sentences: Ehsan ISMATOV and Rajabali BALKHIYEV

On 12 April 2002 Tajik TV broadcast the trial of two soldiers - Ehsan Mirmahmadovich Ismatov and Rajabali Jalolovich Balkhiyev - before the Military Collegium of the Tajik Supreme Court in Dushanbe. Viewers saw them convicted on four charges and sentenced to death.

The two men have the right to appeal against their sentences to the Plenum of the Tajik Supreme Court. If their appeals fail they can petition the Tajik President for clemency. The new Code of Executing Sentences adopted in August 2001 entitles prisoners to a stay of execution while their clemency petitions are being considered and the President must decide on the petition within four months.

Amnesty International opposes the death penalty in all cases on the grounds that it violates the right to life, and the right not to be subjected to cruel, inhuman and degrading treatment, proclaimed in the International Covenant on Civil and Political Rights to which Tajikistan is party.

According to the television programme, the two soldiers from Unit 3974 of the Tajik army were accused of belonging to an armed gang set up for the purpose of carrying out armed robberies. At their trial they were convicted of "Banditry", "Illegal trading in weapons and explosives", "Murder" and "Robbery" under Articles 186, 195, 104 and 249 of the Tajik criminal code respectively. Under each of those articles the death penalty is a possible, but not mandatory punishment.

According to Amnesty International's information, the TV broadcast focused on the passing of the death sentence without showing the element of discretion in the judgement, or arguments of the prosecution and defence.

BACKGROUND INFORMATION

Tajik law prescribes the death penalty for 15 offences - not all of them connected with violence - and "murder" is punishable by death in no fewer than sixteen aggravating circumstances under Article 104(2) of the Criminal Code. The death penalty is discretionary, which means that judges can choose to impose imprisonment instead.

Nevertheless, AI learned of no fewer than 74 death sentences passed in 2001 and 5 executions. Since the official death penalty statistics are not accessible to the public, it is probable that the true figures for both categories are higher. Only two death sentences were reported commuted over the same period. The population of Tajikistan is around 6 million.

Between June 1995 and November 1998 a *de facto* moratorium on death sentences and executions was in place in Tajikistan. Since August 2001 the Tajik press has published articles by a handful of human rights lawyers, calling for capital punishment to be restricted, citing fair trial issues and known judicial mistakes in the past. In January 2002, however, the Chair of the Criminal Cases Collegium of the Supreme Court - Fakhridin Dodomatov - said that current legal guarantees were adequate to prevent mistakes and that, in his view, the country was not ready for abolition.

Recommended actions:

Write to:

Please send politely

1. **President Rakhmonov**/ Respublika Tajikistan/ g. Dushanbe/ pr. Rudaki 80/ Prezidentu RAKHMONOVU I. Sh.
FAX: +992 372 21 25 20; +992 372 21 18 37
(Salutation: "Dear President Rakhmonov")
2. **Tajik Minister of Justice, Khalifabobo HOMIDOV**
Respublika Tajikistan/ 734025 g. Dushanbe/ prospekt Rudaki 25/ Ministerstvo yustitsii respublikii Tajikistan/ Ministru HOMIDOVU Kh.

FAX: +992 372 21 80 66
(Salutation: "Dear Minister")

3. **Chair of Tajik Supreme Court Plenum, Ubaydulo DAVLATOV**
Respublika Tajikistan/ 734018 g. Dushanbe/ ul. N. Karabayeva 17/ Verkhovny sud respublik
Tajikistan, Predsedatelyu plenuma DAVLATOVU U. A.
(Salutation: "Dear Chairman")
4. **Chair of Clemency Commission of the Supreme Council, Ms Gulchekhre SHARIPOVA**
Respublika Tajikistan/ 734051 g. Dushanbe/ pr. Rudaki 42/ Komissiya po voprosam
pomilovaniya/ Verkhovny Sovet respublik Tajikistan, Predsedatelyu SHARIPOVE G.
(Salutation: "Dear Madame Chairman")
5. **Procurator General of Tajikistan, Bobojon BOBOKHONOV**
Respublika Tajikistan / 734043 g. Dushanbe/ prospekt A. Sino 126/ Prokuratura Respubliki
Tajikistan, Generalnomu prokuroru BOBOKHONOVU B. K.
(Salutation: "Dear Procurator General")

Send copies of your letters to:

- *the Chair of the Military Collegium of the Tajik Supreme Court who passed the sentence, (name not known)*
Respublika Tajikistan/ 734018 g. Dushanbe/ ul. N. Karabayeva 17/ Verkhovny sud respublik Tajikistan/ *Voennaya kollegiya/ PREDSEDATELYU*
- the Ambassador of Tajikistan to your country (if there is one)
- *the Director General of Tajik State Television (name not known)*
Respublika Tajikistan/ g. Dushanbe/GTV Tajikistana / *GENERALNOMU DIREKTORU*
- the Tajik Permanent Representation at the United Nations in New York (name not known):
Permanent Representative to the UN of the Republic of Tajikistan, 136 East 67th Street, New York NY 10021, USA. Fax: +1 212 628 0252; +1 212 472 7645

DURATION OF APPEALS: 6 MONTHS

PLEASE SEND ANY REPLIES FROM THE TAJIK AUTHORITIES AS SOON AS
POSSIBLE TO THE INTERNATIONAL SECRETARIAT OF AMNESTY INTERNATIONAL.
(South Caucasus and Central Asia Research and Campaign Team; Amnesty International; 1 Easton
Street; London WC1 X ODW; United Kingdom)