

**@ABOLITION OF THE DEATH PENALTY:
TIME FOR FURTHER ACTION BY THE CSCE AND ITS PARTICIPATING STATES**

Statement to the Review Conference of the
Conference on Security and Cooperation in Europe
Budapest, 10 October - 2 December 1994

The past few years have seen unprecedented progress in abolishing the death penalty among the countries which now make up the Conference on Security and Cooperation in Europe.

The roots of abolition are deep. They reach down to centuries-old discussions on rational measures to defeat crime and on the limits to be placed on state power, and to the decisions taken in individual cases to extend mercy to condemned prisoners.

Since 1989, no fewer than nine states now participating in the CSCE have abolished the death penalty for all crimes: Croatia, the Czech Republic, Hungary, Ireland, Romania, the Slovak Republic, Slovenia, Switzerland, and - most recently - Greece. They join the total of 24 participating states whose laws no longer provide for the death penalty for any crime. Six other participating states have abolished the death penalty for common crimes such as murder while retaining it for wartime or other exceptional offences. One other state can be considered abolitionist de facto, not having carried out executions for the past 10 years or more.

Elsewhere the death penalty has been restricted. There have been official or de facto moratoria on carrying out executions (Bulgaria, Poland, Turkey). The number of capital crimes has been reduced in a number of states (Belarus, Estonia, Latvia, Lithuania, Moldova, Russia, Turkey, Ukraine), while elsewhere there are plans to do so (Belarus). The number of executions has declined as the executive made use of the prerogative of clemency (Kyrgyzstan, Russia). In one state (Turkey), all death sentences were commuted, although new death sentences have been imposed since then. Three other states (Belgium, Bosnia-Herzegovina, Poland) have announced plans to abolish the death penalty or are considering such plans.

The abolitionist experiment - rejecting a punishment which had long been regarded as natural and normal - has been successful. As the European Ministers of Justice stated at their 12th Conference in 1980, "...it has not been established that the total abolition of the death penalty by many member states [of the Council of Europe] has led to any negative consequences in the field of criminal policy". And abolition, once accomplished, tends to be more and more accepted by public opinion. In Germany in 1950, one year after the death penalty was abolished, 55 per cent of respondents in a poll said they favoured the death penalty. Since then support for the death penalty has steadily declined in the country, reaching 22 per cent in 1986, while opposition to the death penalty has grown steadily to 55 per cent in the same year.¹

¹ Amnesty International, When the State Kills... The Death Penalty v. Human Rights, 1989, page 23.

In the United States of America, however, the scope of the death penalty has recently been radically increased to include crimes not resulting in death². In addition to the USA, countries that have carried out executions since the beginning of 1993 include Albania, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Russia, Ukraine and Turkmenistan.

Two arguments frequently advanced for retaining the death penalty are that high crime rates make retention imperative, and that public opinion is not ready to accept abolition. But to fight crime effectively, it is necessary to face the facts: the death penalty has never been shown to deter crime more effectively than other punishments. The most recent world survey of research findings on the relation between the death penalty and homicide rates, conducted for the United Nations Committee on Crime Prevention and Control in 1988, concluded that "This research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming."³ And the public, which is often poorly informed on criminal justice matters, must be given the facts if it is to support official crime prevention policies. As was stated by the UN Secretariat in a working paper prepared for the Sixth UN Congress on the Prevention of Crime and the Treatment of Offenders in 1980, "It ... seems to be an important task of Governments, the academic community, the mass media, and other publicly minded organizations ... to educate the public as to the uncertainty of the deterrent effect of capital punishment ..."⁴

Amnesty International opposes the death penalty as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as enshrined in international human rights instruments. Amnesty International holds that the state must never have the power to execute a prisoner.

The CSCE participating states, individually and collectively, should move decisively to achieve the total abolition of the death penalty in all participating states.

² Amnesty International's concerns about the use of the death penalty in the USA are discussed in a separate statement to the Review Conference.

³ Roger Hood, The Death Penalty; A World-Wide Perspective; A Report to the United Nations Committee on Crime Prevention and Control, Clarendon Press, Oxford, United Kingdom, 1989, page 167

⁴ Capital Punishment; Working Paper Prepared by the Secretariat. UN document No. A/CONF.87/9, 23 June 1980, paragraph 68.

STATUS OF THE DEATH PENALTY IN CSCE PARTICIPATING STATES
(as of June 1994)

Accession to treaties

<u>State</u>		<u>Protocol 6</u> <u>Status (1)</u>	<u>Protocol 2</u> <u>ECNR (2)</u>	<u>ICCPR (3)</u>	
Albania	R				
Armenia	R				
Austria	A		R		R
Azerbaijdzhan	R				
Belarus	R				
Belgium	ADF		S		
Bosnia-Herzegovina	R				
Bulgaria	R				
Canada	AO				
Croatia	A				
Cyprus	AO				
Czech Republic	A		R		
Denmark	A		R		R
Estonia	R		S		
Finland	A		R		R
France	A		R		
Georgia	R				
Germany	A		R		R
Greece	A		S		
Holy See	A				
Hungary	A		R		R
Iceland	A		R		R
Ireland	A		R		R
Italy		AO		R	S
Kazakhstan		R			
Kyrgyzstan		R			
Latvia	R				
Liechtenstein	A		R		
Lithuania	R				
Luxembourg		A		R	R
Malta		AO		R	
Moldova	R				
Monaco	A				
Netherlands		A		R	R
Norway	A		R		R
Poland	R				
Portugal	A		R		R
Romania	A		S		R
Russian Federation	R				
San Marino		A		R	
Slovakia	A		R		
Slovenia	A		R		R
Spain		AO		R	R
Sweden	A		R		R
Switzerland		A		R	
Tadzhikistan	R				
Turkey	R				

Turkmenistan	R	
Ukraine	R	
United Kingdom	AO	
United States of America		R
Uzbekistan	R	
Yugoslavia	R	

- (1) A = Abolitionist for all crimes
 AO = Abolitionist for all but exceptional crimes
 ADF = Abolitionist de facto (no executions in the past 10 years or more) R = Retentionist

(2) Protocol No. 6 to the European Convention on Human Rights concerning the abolition of the death penalty

(3) Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty

S = Signature

R = Ratification or accession