

EXTERNAL

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DEATH PENALTY APPEAL

USSR - Aleksandr Grigoryevich SHOVKOPLYAS

The information on this case comes from an unofficial source, which reports that Aleksandr Shovkoplyas was sentenced to death by Dnepropetrovsk Regional Court in the Ukraine on 31 October 1990 after being convicted of murder and assault with attempt to rob.

Aleksandr Shovkoplyas was accused of murdering one person in the course of a robbery, and a second person to cover up the first killing, in January 1989. The court is said to have sent the case back three times for reinvestigation before finally convicting him. The Criminal Cases Collegium of the Ukrainian Supreme Court turned down his appeal on 23 April 1991 and left the sentence in force. It is not known if Aleksandr Shovkoplyas has now petitioned for clemency. He is being held on death row in a prison in Dnepropetrovsk.

Amnesty International is opposed to the death penalty in all cases 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 Ukrainian Supreme Soviet to exercise his constitutional authority and commute the death sentence passed on Aleksandr Shovkoplyas.

Background

Death sentences are regularly passed and carried out in the USSR, but official Soviet sources do not always announce subsequent developments in individual cases and it is therefore frequently not known if death sentences are carried out or if they are commuted. Indeed, until recently, statistics on the number of sentences and executions were a state secret. However on 16 January 1991, the USSR Minister of Justice, Sergey Lushchikov, announced such statistics for the first time since 1934. He covered five years, from 1985 to 1989. The figures given reported a year-by-year decrease in the number of sentences from 770 in 1985, of which 20 were commuted, to 271 in 1988, of which 72 were commuted. However, the figures for 1989 showed a slight rise in death sentences, up to 276, but a significant drop in commutations, down to 23. Figures recently released for 1990 show this trend has continued. At a press-conference held on 5 March 1991 the USSR Ministry of Justice reported that 445 death sentences were passed and 195 people were executed in 1990. According to an article published in Izvestiya in April, 226 petitions for clemency were heard by the Clemency Commission

in 1990, but in only 18 cases were the sentences commuted. In July Gennady Cheremnykh, head of the USSR parliamentary clemency body, confirmed that 208 death sentences were carried out in 1990, chiefly in the RSFSR and the Ukrainian SSR.

Much of classical socialist doctrine has rejected the use of the death penalty and, in conformity with socialist principles, Soviet criminal and penal theory since the founding of the Soviet State has tended formally to give preference to correction and re-education rather than punishment as a means of dealing with offenders and criminality. In spite of this, the death penalty has been in use throughout most of the history of the Soviet Union.

The criminal code has been undergoing extensive revision. On 1 July 1991 the Fundamentals of Criminal Legislation of the USSR and Republics were adopted and they were published on 19 July in the Soviet newspaper Izvestiya. Article 40, regulating the death penalty, came into force on the date of publication. The new legislation retains the death penalty for five crimes in peacetime: treason, premeditated murder with aggravating circumstances, rape of a minor with aggravating circumstances, kidnapping of a minor with especially grave consequences and grave crimes against the peace and security of mankind. Women are exempted under the new legislation from the death penalty, which also reaffirms exemption for those under 18. Women and those awaiting execution for crimes which no longer carry the death penalty are to have their sentences commuted to 15-year prison terms. The death penalty will be carried out, as before, by shooting. It is not known, however, if this legislation at USSR level has yet been reflected in that of the Ukraine.

In the absence of official statistics in the past, Amnesty International has monitored official and unofficial sources in the USSR for individual reports of death sentences and executions. For example, since the beginning of 1987, when the authorities first announced their review, at least 243 sentences and 40 executions have come to light in this way. The organization always believed that the total figures were much higher, however, and this is borne out by the recently-published statistics.