

Date: 11 December 1991

**DEATH PENALTY APPEAL**

USSR (Russian Federation) - Nikolay Alekseevich ZEMTSOV

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Information on this case comes from an unofficial source in the USSR, which reports that Nikolay Alekseevich Zemtsov has been sentenced to death after having been convicted of murder. He is being held on death row in a prison in Krasnodar in the Russian Federation (RSFSR). The sentence was passed by the Krasnodar Territorial Court. The exact date of the sentence is not known, but it is certainly since June 1991.

According to the unofficial source, Nikolay Zemtsov was first found guilty of murder by the Krasnodar Territorial Court in August 1990. He was originally sentenced to 15 years' imprisonment. Apparently owing to procedural errors made at the first trial, the case was tried again in December 1990, and the sentence of 15 years' imprisonment was confirmed. However, since June 1991 the case was tried for a third time, for reasons which are unclear to Amnesty International but apparently on the initiative of the RSFSR Procuracy, and Nikolay Zemtsov was sentenced to death.

Nikolay Zemtsov denies the charge against him, and claims that he was falsely accused of the crime by a co-defendant. He has appealed against his sentence to the RSFSR Supreme Court and the USSR Supreme Court. The outcome of those appeals is not known. Official sources report that it can take some two years for an appeal to pass through the various stages.

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 President of the RSFSR, Boris Yeltsin, to exercise his constitutional authority and commute the death sentence passed on Nikolay Zemtsov.

**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. However, in each of the republics of the USSR the provisions of the new USSR legislation have no force unless the republican parliament has incorporated them into republican legislation. 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 and those under the age of 18 are exempted under the new legislation from the death penalty, and those awaiting execution for crimes which no longer carry the death penalty have their sentences commuted to 15-year prison terms. The death penalty will be carried out, as before, by shooting.

In a letter to Amnesty International in November 1991, the Deputy Foreign Minister of the RSFSR declared that the death penalty was no longer used in the republic for economic offences. On 5 December the death penalty was abolished in the RSFSR for the crimes of theft on a particularly large scale, accepting bribes in particularly aggravating circumstances, and foreign currency speculation.