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DEATH PENALTY APPEAL

Nikolay Rudolfovich ANDREYEV

Russian Federation

The information on this case comes from an unofficial source, which reports that Nikolay Andreyev was sentenced to death by Leningrad (now St. Petersburg) City Court in the Russian Federation on 23 May 1991 after being convicted of murder.

Nikolay Andreyev, aged 24, was accused of murdering his cell-mate and convicted under Article 102 of the Russian Federation Criminal Code - "intentional homicide under aggravating circumstances". The procurator is said to have requested a sentence of 15 years' imprisonment, but the court decided to impose a more severe sentence. Nikolay Andreyev's lawyer has reportedly asked for the charge to be redefined as Article 108 - "intentional infliction of grave bodily injury" - on the grounds that the court had not proved intent to murder. It is not known whether an appeal or petition for clemency has yet been heard at a higher level.

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 Russian Federation to exercise his constitutional authority and commute the death sentence passed on Nikolay Andreyev.

Background

Death sentences were regularly passed and carried out in the former USRR, but official sources did not always announce subsequent developments in individual cases and it was therefore frequently not known if death sentences were carried out or if they were commuted. Indeed, until recently, statistics on the number of sentences and executions were a state secret. However on 16 January 1991, the then 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 Russian Federation and Ukraine.

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, and is retained in all the republics of the former USSR.

In December 1991 the Russian Federation abolished the death penalty for a number of economic offences but to Amnesty International's knowledge it has not reduced the capital offences in its criminal code to the five envisaged in legislation passed by the former USSR parliament earlier this year. 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 at USSR level on the date of publication. This legislation retained 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 were exempted under the new legislation from the death penalty, which also reaffirmed exemption for those under 18. Women and those awaiting execution for crimes which no longer carry the death penalty were to have their sentences commuted to 15-year prison terms. The death penalty would be carried out, as before, by shooting.