

EXTERNAL

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@Kazbek Alexandrovich KOKAYEV

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£Russian Federation

Amnesty International is concerned that Kazbek Kokayev may face imminent execution. He is known to have been held in solitary confinement in a condemned cell for more than two and a half years, for crimes committed in 1979. The crimes in question, an armed attack on a militia base in Kursk and the theft of weapons, in the course of which three militia men were killed, were reported in the newspaper Shchit i mech (No. 8 1990), as was the subsequent 10-year-long investigation of the crimes. The trial took place in Pyatigorsk, Stavropolsky Territory, probably in 1990. According to an unofficial source, one of Kazbek Kokayev's co-defendants has had his death sentence commuted to a fifteen-year prison sentence.

By June 1991 Kazbek Kokayev's appeal against his sentence had been turned down and he then lodged a petition for clemency with President Gorbachev, when the federal level of government of the Soviet Union was still in existence. His petition for clemency is now pending before President Yeltsin of the Russian Federation.

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 to commute the death sentence passed on Kazbek Kokayev.

Background information

Death sentences are regularly passed and carried out in the Russian Federation. The most recent indication of the scale comes from the chairman of the Clemency Commission of the Russian Federation. On 19 May 1992, Amnesty International's Information Officer in Moscow was given the following information on the application of the death penalty in the Russian Federation. In 1989 97 persons were said to have been sentenced to death. Of these 26 had their death sentence commuted by the Supreme Court, four were granted clemency and the remaining 67 were executed. In 1990 a total of 206 people were sentenced to death: 28

subsequently had this sentence commuted by the Supreme Court, two received clemency and 176 were executed. In 1991, 144 people were sentenced to death. The Supreme Court commuted 37 of these sentences, 37 prisoners were granted clemency and 70 were executed. As of 1 May 1992, the staff department of the Clemency Commission were considering 308 cases of persons sentenced to death in the Russian Federation. According to the Russian Ministry of Justice, 95 death sentences were passed during the first six months of 1992.

On 9 March 1992 a parliamentary debate on draft proposals for an amnesty in the Russian Federation took place. One of the proposals submitted by the Chairman of the Committee for Legislation was to replace death sentences passed but not yet carried out with a 20-year sentence of imprisonment. However, this provoked widespread opposition, and was dropped.

Prior to December 1991 the Russian Criminal Code retained the death penalty for 18 offences in peacetime. However at the beginning of that month the Russian parliament abolished the death penalty for three economic offences: large-scale speculation, aggravated bribe-taking and large scale theft of state property. A draft criminal code, set to come before parliament shortly, proposes reducing the scope of the death penalty further to three offences: premeditated murder under aggravating circumstances, genocide and war crimes. To Amnesty International's knowledge the overwhelming majority of death sentences passed in recent years have been for murder under aggravating circumstances. A death sentence may not be passed on a pregnant woman or on anyone under 18, or ruled to have been insane, at the time of the offence or when sentence is passed.

Although there is discussion on the introduction of a jury system, capital cases are still tried by a bench of three judges, of whom only one is professionally trained. A defence lawyer must assist in capital cases. Prisoners can appeal against the verdict or sentence to the next highest court within seven days of receiving a written copy of the judgement. As their cases are heard at a higher level at first instance, however, prisoners under sentence of death have fewer opportunities to appeal than many other prisoners. Some have been sentenced to death without right of appeal. Andrey Zapevalov, for example, was sentenced to death for murder by the Russian (RSFSR) Supreme Court without right of appeal in November 1989, after a trial Amnesty International considered was unfair. His sentence was commuted in April 1991.

Death sentences may also be reduced by a judicial review. Under this procedure a higher court re-examines the case after it has received a protest against the judgement of the court of first instance or the court of appeal. Although death sentences are suspended pending appeal, they may still be carried out before a judicial review has been completed. If these remedies fail, prisoners under sentence of death can petition for clemency, which may be granted by the President of the Russian Federation. Following the break-up of the Soviet Union such prisoners no longer have the opportunity for a judicial review or petition to be considered by the federal USSR authorities, and have thereby lost a possible final avenue for commutation. Prior to this legal authorities estimated that it could take some two years for a death penalty case to reach resolution.