

EXTERNAL

AI Index: EUR 50/13/97

UA 204/97

Death penalty / Ill-treatment

10 July 1997

UKRAINE Mykola KHOKHLICH, aged 21

Aleksey GAGA, aged 21

Mykola Khokhlich and Aleksey Gaga have been sentenced to death in Ukraine. Both men face the death penalty unless President Kuchma grants them clemency.

Mykola Khokhlich and Aleksey Gaga were sentenced to death by Khmelnytsky Regional Court on 9 February 1996 after having been found guilty of the murder of two people during a robbery. The Supreme Court of Ukraine upheld the death sentences passed on them in a ruling of 20 March 1996. The Procurator-General of Ukraine refused to appeal the death sentences. The two men's petitions for clemency are now awaiting review by the President.

Mykola Khokhlich was reportedly subjected to torture and ill-treatment in police custody for four days after his arrest in March 1995. He was allegedly severely beaten by about 15 law enforcement officers in order to force him to sign a confession of guilt. He was also prevented from access to the lawyer of his choice.

Mykola Khokhlich is at present appealing to the United Nations Human Rights Committee.

BACKGROUND INFORMATION

On 5 May 1997 Ukraine signed Protocol No. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, thereby committing itself to the abolition of the death penalty.

Ukraine acceded to the Council of Europe on 9 November 1995, and committed itself to imposing an immediate moratorium on executions. However, despite this commitment 169 people were executed by the Ukrainian authorities in 1996.

During the review of the Third Periodic Review of Ukraine by the UN Committee against Torture in April 1997 representatives of the Ministry of Justice reported that no executions had taken place since the beginning of 1997. The death sentences passed on Andrey Yevtemy and Sergey Vysochansky were commuted by President Kuchma in March and April of this year.

On 29 January the Parliamentary Assembly of the Council of Europe passed Resolution 1112 (1997) which stated that "*the Assembly warns the Ukrainian authorities that it will take all necessary steps to ensure compliance with commitments entered into. In particular, should any more executions of the death penalty be carried out following the adoption of this resolution, the Assembly may consider the non-ratification of the credentials of the Ukrainian parliamentary delegation at its next session*".

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in Ukrainian, Russian, English or your own language:

- urging President Kuchma to grant clemency to Mykola Khokhlich and Aleksey Gaga, as well as to all other death row prisoners whose clemency petitions come before him;

- expressing concern at allegations that Mykola Khokhlich was tortured while in pre-trial detention in March 1995 in order to obtain a confession from him and that he was reportedly denied access to the lawyer of his choice;

- welcoming the recent signing of Protocol No. 6 by the Ukrainian government, and the decision to grant clemency to Sergey Vysochansky and Andrey Yeftemy, but reminding the Ukrainian authorities that Article 18 of the Vienna Convention on the Law of Treaties, to which Ukraine has been a party since 14 May 1986, states that once a state has signed a treaty it is *"obliged to refrain from acts which would defeat the object and purpose of [the] treaty"*. Any further executions carried out in Ukraine would clearly defeat the object and purpose of Protocol No.6, which is to abolish the death penalty in peacetime;

- urging the Ukrainian authorities to follow the recommendations of the Committee against Torture issued on 29 April 1997 relating to the immediate implementation of a permanent moratorium on executions and urging the authorities to take steps to eradicate the practice of torture and ill-treatment of people in detention.

APPEALS TO:

President of Ukraine, Leonid KUCHMA
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Prezidentu Ukrainy Kuchma L.
Faxes: 380 44 291 61 61
Salutation: Dear President

Minister of Internal Affairs, Yury KRAVCHENKO
Ukraina
25204 g. Kiev
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Ministerstvo vnutrennikh del Ukrainy
Ministru Kravchenko Yu.F
Telegrams: Ukraina, Kiev, Ministru vnutrennikh del
Faxes: 380 44 291 17 33
Salutation: Dear Minister

Deputy Procurator of Khmelnytsky Region, Oleg KHARCHINKO
Ukraina
Khmelnytsky oblast
Khmelnytsk
Oblastnaya Prokuratora,
Zam- Prokuratoru KHARCHINKU
Salutation: Dear Deputy Procurator

COPIES TO:

Procurator General of Ukraine, Grigory VORSINOV
Ukraina
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ul. Reznitskaya, 13/15
Prokuratura Ukrainy
Generalnomu prokuroru VORSINOVU G.
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Foreign Minister of Ukraine, Hennady UDOVENKO
Ukraina

252501 g. Kiev 24
ul. Karla Liebknecht 15/1
Ministerstvo inostrannykh del
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Ministru UDOVENKO H.Y

and to diplomatic representatives of UKRAINE accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 21 August 1997.