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UKRAINE EXECUTES OVER 100 PRISONERS DESPITE COMMITMENT TO STOP EXECUTIONS

Ukraine has secretly executed more than one hundred prisoners this year, in defiance of the solemn commitment it made to institute an immediate moratorium on executions when joining the Council of Europe in November 1995.

Ukraine committed itself on 26 September 1995 "to sign within one year and ratify within three years from the time of accession [to the Council of Europe] Protocol No. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms on the abolition of the death penalty, and to put into place, with immediate effect from the day of accession, a moratorium on executions".¹ It acceded to the Council of Europe on 9 November 1995, but has failed to sign the Protocol to date.

In May 1996 AI wrote to the Secretary General of the Council of Europe expressing concern at reports that executions were continuing in Ukraine despite the commitment to a moratorium.

On 28 June 1996 the Parliamentary Assembly adopted resolution 1097 (1996) on the abolition of the death penalty in Europe. The resolution stated: "The Assembly deplores the executions which, reportedly, have been carried out recently in ... Ukraine. In particular, it condemns Ukraine for apparently violating its commitments to introduce a moratorium on executions of the death penalty upon its accession to the Council of Europe." The Assembly called upon Ukraine to honour its commitments "regarding the introduction of a moratorium on executions and the immediate abolition of capital punishment" and warned Ukraine that further violation of its commitments, "especially the carrying out of executions, will have consequences under Order No. 508 (1995)." (Order No. 508 (1995) concerns the suspension of rights of representation at the Parliamentary Assembly or expulsion from the Council of Europe, measures which can be taken against countries which do not fulfill the commitments which they have made on joining the Council of Europe.)

The disclosure that Ukraine has executed over one hundred prisoners came at a news conference on Friday 29 November 1996 in the capital, Kyiv, at the end of an international seminar on the death penalty organized by the Council of Europe. In a dramatic statement, Zsolt Nemeth, Council of Europe rapporteur on the honouring of obligations and commitments by

¹ Parliamentary Assembly of the Council of Europe, Opinion No. 190 (1995), paragraph 12.ii. Protocol No. 6 to the European Convention on Human Rights and Fundamental Freedoms ["European Convention on Human Rights"] provides for the abolition of the death penalty. By ratifying the protocol, a state commits itself to abolish the death penalty for peacetime. In signing the protocol, a state indicates its intention to ratify the protocol at a later date.

Ukraine, told journalists he had just received the "shocking" information that over one hundred people had been executed since the beginning of the year.

The executions could only be characterized as "barbarism" and called into question the credibility of Ukraine, he said. He added that Ukraine must now institute an immediate moratorium on executions and provide a timetable for abolishing the death penalty.

"We cannot be satisfied with promises. We need to see concrete plans", Zsolt Nemeth said.

Zsolt Nemeth called on the Ukrainian authorities to disclose the names of those executed - by law, information on the death penalty is a state secret. He confirmed, as Amnesty International had already reported previously (see for example "Ukraine: The death penalty: a cruel, inhuman and degrading punishment", AI Index: EUR 50/07/95, July 1995) that executed prisoners were buried in unmarked graves and their families were not notified of the executions.

After the disclosure by Zsolt Nemeth, Serhiy Holovaty, Minister of Justice of Ukraine, confirmed to the news conference that 89 prisoners had been executed in the first six months of 1996. He said he believed Ukraine must honour its commitment to stop executions.

Birger Hagard, chairperson of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, said it was hard to understand why this had happened. "Ukraine hurts itself by having these executions", he said. "Ukraine hurts its reputation as a free country with relations to the rest of Europe."

Birger Hagard said that in his capacity as chairperson of the Committee on Legal Affairs and Human Rights he would write to President Leonid Kuchma urging the President to grant clemency to all prisoners under sentence of death.

The number of executions disclosed by the Council of Europe rapporteur confirms reports received by Amnesty International from a Ukrainian radio station, which claimed in July that approximately 100 people were executed this year. Amnesty International had been able to confirm six of those executions, one in March, one in June, three in August and one in October. Amnesty International had appealed to President Leonid Kuchma to grant clemency to all death penalty prisoners. President Kuchma never replied to the appeals.

Amnesty International has been able to confirm that the following people were executed in 1996:

Yury Shrukov, aged 29, sentenced to death on 21 March 1996 executed in March 1996;

Vladimir Ogoltsov, aged 20, executed in June 1996;

Aleksey Vedmedenko, aged 20, sentenced to death in October 1995, believed to have been executed on 5 August 1996;

Denis Birukov, aged 20, sentenced to death in October 1995, executed in August 1996.

Maksim Artsyuk, aged 29, sentenced to death on 15 June 1994, executed in August 1996.

Maksim Artsyuk's parents have still not been officially informed of his death.

Sergey Tekuchev, aged 27, sentenced to death 11 September 1995 executed on 17 October 1996;

The relatives of Sergey Tekuchev, executed in October, claim that he was innocent and that his confession was obtained under duress. There are claims that the emergency services were called six times in October 1994 to treat Sergey Tekuchev for injuries resulting from beatings in custody and that the prison authorities refused to pass medication from his relatives to him.

Amnesty International is alarmed that two other men sentenced to death may be facing imminent execution unless their sentences are commuted by the President of Ukraine. One is Sergey Vysochansky, aged 23, whose appeal against his death sentence was turned down by the Supreme Court of Ukraine on 4 August 1996. He was sentenced to death for premeditated aggravated murder (Article 93 of the Ukrainian Criminal Code) by Khelmensky regional court on 3 April 1996. Amnesty International is gravely concerned at the speed with which Sergey Vysochansky's case is being processed, especially in the light of claims that there is evidence which suggests that Sergey Vysochansky is innocent and that he is being used as a scape goat in order that the murder investigation be resolved.

Vladimir Chernitsa, aged 23, sent his petition for clemency to President Kuchma on 11 September 1996. This is his last hope of avoiding execution. Vladimir Chernitsa was sentenced to death by Odessa Regional Court on 3 April 1996, for premeditated, aggravated murder. The death sentence passed on him was upheld by the Supreme Court of Ukraine in September 1996. There are allegations that Vladimir Chernitsa cannot be held fully responsible for his actions at the time of the murder, as he suffers repercussions from severe head injuries.

AI considers that Ukraine must take five steps to implement its commitment to the Council of Europe.

First, there must be a political decision not to sign any more execution orders. Second, this decision must be formalized by the central government issuing an order to all prison governors that no further executions are to be carried out. These two steps must be taken immediately.

Third, the government must begin to prepare public opinion to accept the abolition of the death penalty. Fourth, it must sign Protocol No. 6 to the European Convention on Human Rights, as it agreed to do within one year of joining the Council of Europe. Fifth, the government and parliament must prepare and enact legislation to remove the death penalty from the country's penal code. The constitution should be amended to prohibit executions.

Ukraine should disclose the names of all executed prisoners, as well as the dates and places of execution, and should immediately inform their families. The families should be allowed to claim the bodies.