

EXTERNAL

6 July 1992

@Vladimir GURTOVOY

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£Ukraine

In November 1991 Vladimir Gurtovoy, aged 22 years, was found guilty of murder by a court in his native town, Dnepropetrovsk. Very few details about the case are available, but an unofficial source alleged that the court did not duly taken into account Vladimir Gurtovoy's claim not to have been the initiator of the fatal quarrel, nor that he is said to suffer from epilepsy.

His appeal against sentence was turned down by the Judicial Collegium on Criminal Cases, attached to the Ukrainian Supreme Court. A petition for clemency is pending before the Supreme Soviet. As it is the Clemency Commission of the Supreme Soviet of Ukraine which submits recommendations to the President about granting or withholding clemency, for Vladimir Gurtovoy this is, in effect, the final stage of the appeals procedure. If this petition is turned down, he will face imminent execution.

Amnesty International opposes the death penalty in all cases and 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 and degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights. Amnesty International is appealing to the President of Ukraine to exercise his constitutional authority and commute the death sentence passed on Vladimir Gurtovoy.

Background information

Ukraine, which together with Belarus (formerly the Belorussian SSR) had separate membership from the USSR at the United Nations (UN), was co-sponsor in 1989 of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which entered into force on 11 July 1991 and is the first treaty of worldwide scope aimed at abolition of the death penalty. However Ukraine itself has yet to ratify the Second Optional Protocol, and death sentences are regularly passed and carried out in the republic. The exact figures are not available as the authorities do not publish official statistics on its use. In March 1992, however, unofficial sources reported that there were 80 people awaiting execution in just two of the 25 administrative areas of Ukraine: 20 persons in the Donetsk Region, and a further 60 persons in

the Kiev Region. An earlier indication of the scale of executions came from the head of the parliamentary Clemency Commission of the former USSR in July 1991, who reported that most of the 208 executions recorded in 1990 were carried out in two republics - Ukraine and Russia.

There has been no recent discussion in the Ukrainian parliament on the issue of the death penalty, and to Amnesty International's knowledge the republic's criminal code retains this punishment for 18 separate offences in peacetime. However the overwhelming majority of death sentences passed in recent years appear to 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. 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.

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 Ukraine. 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.