

EXTERNAL

8 April 1994

Andrei ARAZOV (_____)
Sultan KARIBZHANOV (_____)

Kyrgyzstan

The information currently available on this case comes from an unofficial source, which reports that Andrei Arazov and Sultan Karibzhanov were sentenced to death on 7 February 1994, by the Regional Court in Chui Region (north Kyrgyzstan) for premeditated aggravated murder. The Supreme Court rejected their appeal against their sentences on 5 April 1994. The last hope Andrei Arazov and Sultan Karibzhanov have of avoiding execution is a petition for clemency to the President of Kyrgyzstan.

Andrei Arazov and Sultan Karibzhanov were convicted of the murder on 5 March 1992 of an elderly couple living not far from Bishkek, the capital of Kyrgyzstan. Sources have raised concerns that the court verdicts are unsound: they report that the only evidence linking Andrei Arazov and Sultan Karibzhanov to the crime were confessions made to law enforcement officers during interrogation. At their trial Andrei Arazov and Sultan Karibzhanov retracted these confessions, claiming that their interrogators had forced them to confess by means of threats and physical violence.

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 authorities in the Kyrgyz Republic to commute the death sentences passed on Andrei Arazov and Sultan Karibzhanov.

Background information

In 1992 Kyrgyzstan cut the number of offences punishable by death in peacetime from 18 to 15, and the number of wartime capital offences from 14 to two. Officials have told Amnesty International of plans to reduce further the number of peacetime capital offences to three or four in a new penal code currently in preparation. Moreover, speaking to an Amnesty International delegation to Kyrgyzstan in April 1992, the Procurator General noted that in current practice death sentences are passed only for murder under aggravating circumstances.

Justice Ministry officials made available to Amnesty International in April 1992 statistics for the number of death sentences passed and carried out between 1987 and 1991. These showed that on average eight death sentences had been passed annually between 1987 and 1990, and that all of these had been carried out. In 1991 the number of death sentences rose sharply to 21, seven of which have already been carried out. One execution was reported in 1992. Execution is by shooting. In February 1993 the head of the Department for Citizenship and Clemency Questions at the President's Office informed Amnesty International that three death sentences passed in 1991 had recently been

commuted to 20 years' imprisonment. A fourth death sentence was commuted in October 1993. Amnesty International had taken up these cases, and unofficial sources in Kyrgyzstan reported that Amnesty International's campaign had made a decisive contribution to their positive resolution.

Cases where the defendants are charged with offences carrying a possible death sentence are heard at first instance in regional courts, the Bishkek city court or the Supreme Court. Although the principles of a jury system exist in law, procedures have yet to be devised for their application, and cases are currently tried by a judge sitting with a bench of "people's assessors", who are without legal training. 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 judgment. Since 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.

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 judgment of the court of first instance or the court of appeal. If all other remedies fail, prisoners under sentence of death can petition for clemency, which may be granted by the President of the Kyrgyz Republic. Following the break-up of the USSR 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.