

EXTERNAL

7 April 1995

A. SEYDAKHMETOV

Kazakhstan

The information currently available on this case comes from an article in the newspaper Kazhkhstanskaya pravda, which reports that A. Seydakhmetov was sentenced to death in the first quarter of 1995 (the exact date is not known) by the South Kazakhstan Regional Court. He was the ringleader of a gang consisting of six people, which committed various crimes including murder, rape and theft. The other five men were sentenced to terms of imprisonment of unknown length. It is not known whether A. Seydakhmetov has already lodged an appeal against his death sentence with the Supreme Court of the Republic of Kazakhstan.

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 Republic of Kazakhstan to commute the death sentence passed on A. Seydakhmetov.

Background information

The Kazakhstan Criminal Code retains the death penalty for 18 offences in peacetime. However, senior officials at the Kazakhstan Ministry of Justice informed Amnesty International in April 1992 that no one has been executed for economic crimes in the past 10 years. Statistics shown to Amnesty International revealed that between 1987 and 1991 the death penalty had been applied for only four offences: murder under aggravating circumstances, rape, threatening the life of a police officer, and banditry. These statistics indicated that between 1987 and 1990 a total of 165 people received death sentences, but at least 41 of them benefited from commutation or pardon. In 1991, 67 death sentences were passed, at least 26 of which were subsequently commuted. Official statistics for 1992 and 1993 have not been available to Amnesty International, but the organization has received reports of six death sentences being passed and six executions carried out during that year. In 1994 courts considered appeals against 87 death sentences. In 61 cases the sentence was not changed. The presidential clemency commission commuted the death sentence to imprisonment in only one case from 40 appeals. Execution is by shooting.

Although there is discussion about the introduction of a jury system, capital cases are currently tried by a bench comprising a judge and four "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. 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.

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. 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 Republic of Kazakhstan. 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.

According to information passed on to Amnesty International by a member of the procuracy of the Republic of Kazakhstan, the period of time between the passing of the death sentence and the actual execution normally takes up to eight months. After a death sentence is passed, the Supreme Court reconsiders the sentence even if the convicted person did not lodge an appeal. This normally happens within two to three months of the sentence being passed. If the Supreme Court leaves the death sentence unchanged the question of whether to grant clemency is usually considered by the President within one to two months. The President's decision is then sent to the court which passed the original sentence and to the prison where the prisoner is held. Because of Kazakhstan's vast size and sometimes poor communications across the great distances involved this can take up to one to two months. If clemency is not granted, upon receipt of the President's decision at the place of detention the prisoner is transferred to the prison where execution will take place. This can take up to one month. Execution is then carried out three to five days after arrival at the place of execution.

On 18 March 1995, President Nazarbayev delivered a speech about crime in Kazakhstan in which he stated that "Although I am not a supporter of repressive measures, I would like to say that at present calls which are sometimes heard for the abolition of the death penalty are absolutely groundless, irrespective of whatever humanistic reasoning accompanies them. Possibly in future our society will reach the necessity of abolishing it and replacing it with life imprisonment as is accepted in states with a high level of a sense of justice, but so far it is too early to talk about it". Amnesty International very much regrets his remarks about the continuing need for the death penalty in Kazakhstan.