

EXTERNAL

AI Index: EUR 50/03/97

30 January 1997

Further information (2) on UA 280/96 (EUR 50/15/96, 2 December 1996) and follow-up EUR 50/01/97, 9 January 1997 - Death penalty / Legal concern

UKRAINE **Sergey Vysochansky**

Amnesty International recently received information that the defence lawyers for Sergey Vysochansky are being denied access to information on the case at the Supreme Court. Reportedly, when they approached the Supreme Court asking for access to the court proceedings they were told that all the information on the case had been sent back to the Khmelnytsky court. They were then told by the Khmelnytsky court that the proceedings had been sent to the Supreme Court in Kiev.

The United Nations standards "Basic Principles on the Role of Lawyers", adopted at the Eighth UN Congress in 1990, states in Article 21, "*It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time*".

The International Covenant of Civil and Political Rights, to which Ukraine is a party as a successor state to the USSR, also states in Article 14(g) that a defendant has the right "*not to be compelled to testify against himself or to confess guilt*". There were allegedly violations of this right in the case of Sergey Vysochansky, as there is strong evidence that he is innocent and that he was forced to sign a confession of guilt under physical and psychological duress.

As a party to the Convention Against Torture (CAT), Ukraine has already committed itself under Article 15 to "ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings..". In Article 1 of the CAT, torture is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession...".

Sergey Vysochansky was sentenced to death for premeditated, aggravated murder by Khmelnytsky regional court on 14 July 1996. This sentence was upheld by the Supreme Court of Ukraine on 6 August 1996. On 5 September 1995 Sergey Vysochansky was arrested and held in detention for 20 days, during which time he was held in a cell with a prison informer who allegedly subjected him to psychological pressure and intimidation. Sergey Vysochansky signed a confession of guilt, but later retracted this on 21 November 1995, saying that he had been forced to confess under duress.

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

To the President:

- urging him to grant clemency to Sergey Vysochansky;

- expressing concern at allegations that Sergey Vysochansky's defence lawyers have reportedly been denied access to the court proceedings and that the prisoner's confession was extracted under duress;
- urging him not to sign any more execution orders as to do so places Ukraine in violation of its commitment to the Council of Europe;
- urging him to take the necessary steps for Ukraine to honour its commitment to the Council of Europe and to sign Protocol 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

To the Head of the Clemency Commission, Peotr Andreychenko:

- urging him to recommend to the President to intervene to prevent Sergey Vysochansky's execution and to grant him clemency;
- urging him to call for a review of the case following allegations that the confession was extracted under duress;

To the Procurator General of Ukraine, Gregory Vorsinov:

- urging him to intervene urgently to allow Sergey Vysochansky's defence lawyers full access to court proceedings and to call for an urgent review of the case following allegations that the confession was extracted under duress.

APPEALS TO:

President of Ukraine, Leonid KUCHMA

Ukraine
252601 Kiev
ul. Bankovaya, 7
Prezidentu Ukrainy Kuchma L.
Faxes: (380 44) 291 61 61
Telegrams: Ukraine, Kiev, Prezidentu Kuchma
Salutation: Dear President

Chairman of the Presidential Clemency Commission, Pyotr ANDREYCHENKO

Ukraine
252220 g. Kiev
ul. Bankovaya, 7
Kommissiya po voprosam pomilovaniya pri Prezidenta
Predsedatelyu Andreychenko P.
Telegrams: Ukraine, Kiev, Kommissiya po voprosam pomilovaniya,
Predsedatelyu
Fax: (380 44) 291 61 61
Salutation: Dear Chairman

Procurator General of Ukraine, Griqory VORSINOV

Ukraine
252601 g. Kiev II
ul. Reznitskaya, 13/15
Prokuratura Ukrainy
Generalnomu prokuroru VORSINOVU G.
Telegrams: Ukraine, Kiev, Prokuratura
Fax: (380 44) 290 26 03
Salutation: Dear Procurator

COPIES TO:

Foreign Minister of Ukraine, Hennady UDOVENKO

Ukraina
252501 g. Kiev 24
ul. Karla Liebknicht 15/1
Ministerstvo inostrannykh del
Ukrainy
Minsitru 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