

Ref.: AI Index EUR 58/01/92

EXTERNAL

12 May 1992

@Batyrbek KYAZOV
Taalaibek KALMATOV

Батырбек КЫЯЗОВ
Таалайбек КАЛМАТОВ

Kyrgyzstan

The information currently available on this case comes from an unofficial source, which reports that Batyrbek Kyazov and Taalaibek Kalmatov were sentenced to death at the beginning of 1991 by the regional court in Osh, Kyrgyzstan. They were convicted of murder. The sentences were upheld on appeal by the Kyrgyzstan Supreme Court in January 1992, and they are now awaiting consideration of their clemency petitions by the clemency department at the office of the President of Kyrgyzstan.

Batyrbek Kyazov and Taalaibek Kalmatov are both in their twenties, and worked as herdsmen on a collective farm in the Kara-Su district of Osh region in southern Kyrgyzstan. They were arrested in June 1990 and charged with murdering three people during an outbreak of serious ethnic violence between Kyrgyz and Uzbeks in Osh region, as a result of which several hundred people died (Batyrbek Kyazov and Taalaibek Kalmatov are Kyrgyz, and the murder victims were Uzbeks). Two other defendants in the case were sentenced to 10 and five years in prison. Considerable public support has been mobilized in Kyrgyzstan on behalf of Batyrbek Kyazov and Taalaibek Kalmatov. Both men deny their guilt, and their supporters claim that there were no witnesses to the murders for which the two men were convicted. They are currently on death row at an investigation-isolation prison in Bishkek, the capital of Kyrgyzstan.

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 Kyrgyzstan to commute the death sentences passed on Batyrbek Kyazov and Taalaibek Kalmatov.

Background information

The Criminal Code of Kyrgyzstan retains the death penalty for a total of 32 offences, but there are plans to reduce this to three or four offences in a new penal code currently in preparation. 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. Execution is by shooting. The head of the Department for Citizenship and Clemency

Questions at the President's Office informed Amnesty International that three of the death sentences passed in 1991 had been commuted, leaving 11 people currently on death row.

Previously, people sentenced to death in Kyrgyzstan were executed in Alma-Ata, the capital of neighbouring Kazakhstan. This practice was discontinued by the Kazakhstan authorities after both republics gained full independence at the end of 1991. Since then, no one has yet been executed in Kyrgyzstan.

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 Republic of Kyrgyzstan. 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.