

Death Penalty : Russian Federation

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LEGAL FRAMEWORK

The Constitution of the Russian Federation provides for the death penalty, until its abolition, as an exceptional punishment for especially grave crimes against life (Art. 20(2) of the Constitution, 25 December 1993). The Criminal Code of the Russian Federation envisages the death penalty for five crimes: murder with aggravating circumstances, assassination attempt against a state or public figure, attempt on the life of a person administering justice or preliminary investigations, attempt on the life of a law-enforcement officer, and genocide (Articles 105(2), 277, 295, 317, and 357 of the Criminal Code, 13 June 1996).

Upon accession to the Council of Europe on 28 February 1996, the Russian Federation committed itself to introducing a moratorium on executions and to ratifying Protocol No. 6 to the ECHR within three years. A presidential decree was issued on 16 May 1996 that requested the government to elaborate a draft law on the ratification of Protocol No. 6 (Presidential Decree No. 724 [On the gradual decrease of the application of the death penalty in connection with accession to the Council of Europe]). As of 30 June 2004, the Russian Federation had still not ratified Protocol No. 6. The Parliamentary Assembly of the Council of Europe has urged the Russian Federation to abolish the death penalty and to conclude the ratification of Protocol No. 6 to the ECHR (Resolution 1277, 23 April 2002).

Moratorium

A presidential decree instituted a moratorium on executions in 1996 (Presidential Decree No. 724 [On the gradual decrease of the application of the death penalty in connection with accession to the Council of Europe], 16 May 1996). Furthermore, a ruling of the Constitutional Court placed a temporary prohibition on the passage of death sentences on 2 February 1999.

The Russian Constitution guarantees the right to trial by jury in cases where the death penalty is a potential sentence (Art. 20 (2) of the Constitution). Accordingly, the Constitutional Court adopted a resolution prohibiting the passage of death sentences until such time as jury trials are introduced throughout the Russian Federation. At the time of the decision, jury trials were only available in nine of the 89 constituent entities of the Federation. It is envisaged that jury trials will have been introduced throughout the Russian Federation by 1 January 2007. The introduction of jury trials will remove the bar that the Constitutional Court has placed upon the passage of death sentences.

On 3 June 1999, a presidential decree commuted the sentences of all persons on death row to either life or 25 years imprisonment.

Method of execution

Shooting (Art. 186, Criminal Executive Code, 8 January 1997)

STATISTICS

Death sentences

None

Executions

None

INTERNATIONAL SAFEGUARDS

Pregnant women and children

Women and persons who were below the age of 18 at the time of the crime cannot be sentenced to death (Art. 59(2), Criminal Code. This article also stipulates that the death penalty cannot be applied to men who are over the age of 65 at the time when the sentence is pronounced).

Pardon or commutation

The Constitution gives the president authority to grant clemency (Art. 89(c) of the Constitution). The death penalty can be commuted to life imprisonment or deprivation of liberty for 25 years (Art. 59(3) of the Criminal Code). Clemency Commissions in each of the constituent entities consider appeals for clemency and make recommendations to the president. A single Presidential Pardon Commission was replaced by regional Pardon Commissions in each of the constituent entities by Presidential Decree No. 1500 [On the procedure for consideration of clemency appeals in the Russian Federation], 28 December 2001. All cases concerning persons sentenced to death are automatically considered regardless of whether the sentenced person has submitted an appeal for clemency. Sentences are not executed until a decision on clemency has been issued (Art. 184 of the Criminal Executive Code).

Relatives

Relatives are not informed in advance of the date of execution. The body is not returned, and the place of burial is not disclosed (Art. 186(4) of the Criminal Executive Code).

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RELEVANT INTERNATIONAL INSTRUMENTS

| International Instruments | Ratification Status |
|---------------------------------------|----------------------------|
| ICCPR | R |
| Second Optional Protocol to the ICCPR | - |
| CRC | R |
| ECHR | R |
| Protocol No. 6 to the ECHR | S |
| Protocol No. 13 to the ECHR | - |

Status: *de facto* abolitionist

R = ratified, S = signed, a dash (-) indicates that the participating State has neither signed nor ratified the relevant instrument