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Poland goes backwards: No to the restoration of the death penalty

Amnesty International is deeply concerned about statements by the President of Poland, Lech Kaczynski on 28 July 2006 in which he called for the restoration of the death penalty in Poland and throughout Europe. President Kaczynski argued on the Polish Public Radio Programme 1 that "*countries that give up this penalty award an unimaginable advantage to the criminal over his victim, the advantage of life over death*". However, any society that uses the death penalty debases the value it places on human life and risks lowering itself to the moral equivalent of the murderer. A judicial system should not repeat the offence of the perpetrator.

Amnesty International opposes the death penalty in all cases as a violation of fundamental human rights -- the **right to life** and the **right not to be subjected to cruel, inhuman or degrading punishment** -- and warns that it is **irrevocable** and **can be inflicted on the innocent** whilst it **has never been shown to deter crime more effectively than other punishments**. Those rights are recognized in the Universal Declaration of Human Rights, other international and regional human rights instruments such as the European Convention on Human Rights (ECHR), and national constitutions and laws.

In Europe, the trend is especially remarkable: the Parliamentary Assembly of the Council of Europe (CoE) now requires a commitment to abolition as a **condition of entry into the organization**, and the European Union (EU) has adopted a far-reaching policy governing the promotion of abolition in non-member states. At the October 1997 CoE Summit, Heads of Government, including all EU member states at that time and the new member states, called for universal abolition of the death penalty. Poland abolished capital punishment in 1997, following a moratorium on executions imposed in 1988.

Abolition of the death penalty is now a requirement of EU membership. This EU commitment was reaffirmed in December 2000 at the European Council Summit in Nice, with the solemn proclamation of the EU Charter on Fundamental Rights. The Charter reaffirms the right of everyone to life and the prohibition of the death penalty (Article II-2). All the EU member states and candidate countries have acceded to Protocol No. 6 to the European Convention on Human Rights, concerning the Abolition of the Death Penalty. In addition, EU member states are all signatories to Protocol 13 to the ECHR, concerning the abolition of the death penalty in all circumstances, which was adopted in Vilnius in May 2002. This treaty explicitly bans the death penalty in all circumstances, including in war-time.

States are bound under international law to respect the provisions of treaties to which they are parties, and to do nothing to defeat the object and purpose of treaties which they have signed.

Amnesty International's latest information shows that **125** countries, which are over half the countries in the world, have now abolished the death penalty in law or practice. Over **40** countries have abolished the death penalty for all crimes since 1990, including Poland. Once abolished, the death penalty is seldom

reintroduced. During the same period only **four** abolitionist countries reintroduced the death penalty and **two** of them -- Nepal and Philippines -- have since abolished the death penalty again.

On 2 August, the League of Polish Families (Liga Polskich Rodzin, LPR), a minority party in Poland's governing coalition, announced a Europe-wide campaign to restore the death penalty and for a referendum on its reintroduction in Poland. LPR vice-president Wojciech Wierzejski called the forbid on the death penalty across the EU's 25 member states "*anachronistic*".

Nevertheless, human rights violations cannot be justified by popular opinion. Many violations of human rights have been popular with the public, including lynching in the USA and massacres in Rwanda. The authorities of Poland should provide human rights leadership and not seek to have the public believe that the death penalty serves a useful purpose.

On 3 August, responding to these statements on behalf of the EU, the European Commission spokesman Stefaan de Rynck, said that "*the death penalty is not compatible with European values*". The EU Guidelines on death penalty state that "*abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights*". The Guidelines establish as an EU objective "*to work towards universal abolition of the death penalty as a strongly held policy view agreed by all EU member states*".

Poland being also a member of the CoE, René van der Linden, President of the Parliamentary Assembly of the CoE, wrote in an open letter to President Kaczynski: "*In our view, the death penalty has no place in the criminal justice system of any modern, civilised country*". He added, "*to suggest that its reintroduction could in any sense represent a positive development would be a direct attack on our common values, which are founded on respect for the basic human dignity of every person*".

Amnesty International is likewise calling on the Polish authorities to respect its international obligations and uphold its commitments on the abolition of the death penalty.