

(Translated from Arabic)

Reply of the competent authorities to the communication concerning Jennifer Dalquez

Facts and procedures

The Public Prosecution Office referred Jennifer Dalquez in criminal case No. 443 of 2015 to Al-Ain criminal court on 10 December 2014 on the charge of having intentionally killed the aggrieved party, [REDACTED], a felony that was combined with the offence of theft of movable property from the victim's residence. On 20 May 2015, the Al-Ain court of first instance unanimously sentenced the accused in her presence to the death penalty for wilful homicide combined with other charges. The law requires the penalty to be enforced in the presence of the victim's next of kin and confiscation of the impounded dagger. As an appeal against the death penalty by the Public Prosecution Office is mandatory and should not undermine the status of the convicted person, the Public Prosecution Office filed appeal No. 1559 of 2015. The convicted person also filed appeal No. 1591 of 2015. The case is still pending.

Safeguards

With regard to the expressions of concern in the communication, we wish to refer to Code of Criminal Procedure No. 35 of 1992, as amended, which provides for the following safeguards in cases involving the death penalty:

1. The accused must have defence counsel. If the accused has not appointed a lawyer, the court must provide a lawyer whose fees are paid by the State (article 4).
2. Cases involving the crime of homicide are closed if a waiver is issued by the relatives of the victim (article 20).
3. The court itself must complete the investigation and cannot rely solely on investigations conducted prior to judicial proceedings concerning a crime entailing the death penalty (article 165).
4. Judgments entailing the death penalty must be handed down unanimously. If unanimity is unattainable, the death penalty must be commuted to life imprisonment (article 218).
5. An appeal against any judgment imposing the death penalty is mandatory and enforcement must be stayed (article 230).
6. A judgment imposing the death penalty by the appeal court must be appealed to the Court of Cassation and enforcement must be stayed pending a ruling (article 253).
7. If the death penalty judgment is reviewed, enforcement is legally suspended (article 262).
8. A report on the different procedures for enforcing the death penalty may be submitted to the enforcement authority with arguments pleading for a stay of enforcement (article 278 and article 279).
9. After a final judgment imposing the death penalty is handed down, the relevant documents must be submitted to the President through the Ministry of Justice for approval. The President may commute it to a more lenient penalty (article 283 of the Code of Criminal Procedure and article 198 of the Constitution of the United Arab Emirates).
10. The relatives of the convicted person must be informed of the date of enforcement of the sentence and they can arrange to meet him on that date at a location other than the place of enforcement. The convicted person may also request to meet with a minister of his religion prior to enforcement (article 284 of the Code of Criminal Procedure).



11. The victim's next of kin must be informed so that they can be present during enforcement of the sentence. The convicted person's lawyer may also be present during enforcement (article 286 of the Code of Criminal Procedure).
 12. After the competent authority in the enforcement facility reads out the charge and the judgment to those present, the convicted person may make a statement, which is placed on record (article 287 of the Code of Criminal Procedure).
 13. The death penalty may not be enforced on official holidays or on holidays of the convicted person's religion (article 288 of the Code of Criminal Procedure).
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