



Éire 2004 Uachtaránacht an Aontais Eorpaigh
Ireland 2004 Presidency of the European Union

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EU PRESIDENCY

The Honorable Brad Henry
State Capitol Building
20008
2300 North Lincoln Blvd – Room 212
Oklahoma City, OK 73105

2234 Massachusetts Ave NW
Washington, DC

April 30, 2004

Dear Governor Henry

The European Union has learned that Osvaldo Torres, a Mexican national, is to be executed in the State of Oklahoma on 18 May, 2004. On behalf of the European Union, Ireland, as current Presidency, together with the Netherlands, the subsequent Presidency, and the European Commission would like to make an urgent humanitarian appeal to spare the life of Mr Torres.

The EU considers that the abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights. The European Union finds this form of punishment cruel and inhuman and the abolition of the death penalty is one of the key policy aims of the European Union in the field of human rights. The EU considers that in States, including federal States, where the death penalty is maintained, it should not be carried out in contravention to the State's international commitments.

A related matter of concern is the compliance with the [Vienna Convention on Consular Relations of 1963](#). The right to consular notification and assistance according to article 36 of the Convention is intended to redress the inherent disadvantages facing detained foreign nationals in any country. This provision gives US nationals abroad the right to contact an American Consulate, in the event of their arrest. The EU is convinced that the observance of the safeguards provided by this Convention is essential and may be decisive, not least in capital cases. The obligations of the United States under the Vienna Convention were confirmed by the judgment of 27 June 2001 by the International Court of Justice (ICJ) in the LaGrand case.

It has come to the attention of the EU that the Oklahoma authorities failed to notify Mr Torres of his right to contact the Mexican Consulate for assistance. The authorities likewise never informed Mexican consular officials of his detention.

Furthermore, the ICJ recently issued a binding judgement in the case of Avena and Other Mexican Nationals (Mex v US), which bears directly on the case of Mr Torres. The ICJ found that the United States had violated Mr Torres's right to consular notification and access, failed to notify Mexican consular authorities of his detention, and deprived Mexican consular officials of the opportunity to provide legal assistance prior to his capital murder trial. The ICJ judgement noted the commitment undertaken by the United States to ensure implementation of the specific measure adopted to ensure performance of its obligations under Article 36 of the Convention. The ICJ recommended that the convictions and sentences in this, and other cases under consideration, be reviewed and reconsidered in a manner which would take into account the violation of rights under the Vienna Convention. The European Union requests that, in accordance with the ICJ judgment, such a review and reconsideration of the conviction and sentence be undertaken. We are deeply concerned that current date of execution would not permit sufficient time for such action to be taken. The EU could not remain silent in the event of an execution being carried out in contravention to the ICJ judgement.

We therefore respectfully urge you, Governor, as we have also urged the [members of the Oklahoma Pardon and Parole Board](#), to take these factors into account and to exercise all the powers vested in your office to grant Mr Torres relief from the death penalty and to ensure that the required review and reconsideration of this case is undertaken.

We thank you in advance for your consideration.

Sincerely,

Noel Fahey
Ambassador of Ireland

Boudewijn Van Eenennaam
Ambassador of the Netherlands

Dr Guenter Burghardt
Ambassador, Head of
Delegation of the European
Commission