



United States Mission to the OSCE

Response to the EU Statement on the Use of the Death Penalty in the USA

As delivered by Deputy Chief of Mission Gary Robbins
to the Permanent Council, Vienna
November 10, 2011

We thank the European Union for its statement regarding the use of the death penalty in the United States.

The use of the death penalty in the United States is a decision of democratically elected governments at the federal and individual state levels and is not prohibited by international law. Nor does capital punishment violate any OSCE commitments. The people of the United States, acting through their freely elected representatives, have enacted laws, at the federal level and in the majority of states, which authorize the death penalty for certain homicides, and its imposition, in appropriate circumstances, has been upheld repeatedly by the United States Supreme Court.

Paul Ezra Rhoades was convicted for the 1987 murders of Susan Michelbacher and Stacy Baldwin in Idaho. In the Michelbacher case, Rhoades kidnapped Michelbacher from a supermarket parking lot. He took her to a remote location, raped and then killed her. A jury found Rhoades guilty of first-degree murder, first-degree kidnapping, robbery, rape and crimes against nature in 1988. He was sentenced to death for these crimes on March 24, 1988.

In the Baldwin case, Rhoades kidnapped Baldwin, forced her into his truck, drove to a secluded area and attempted to sexually attack her before she broke free. Rhoades fatally shot her as she fled. A jury found Rhoades guilty of first-degree murder, first-degree kidnapping, and robbery in 1988. He was sentenced to death May 13, 1988. In 1991, the Idaho Supreme Court affirmed Rhoades' convictions and sentences in both cases. United States Federal Courts have denied Rhoades' petition for habeas corpus and the U.S. Supreme Court declined further review of those denials on October 11, 2011.

The United States is a party to the International Covenant on Civil and Political Rights (ICCPR), which specifically recognizes the ability of countries to impose the death penalty for the most serious crimes, carried out pursuant to a final judgment rendered by a competent court and in accordance with appropriate safeguards and observance of due process. The U.S. judicial system provides an exhaustive system of protections to ensure that capital punishment is limited to those offenders who commit a narrow category of the most serious crimes so that its imposition does not constitute cruel or unusual punishment as prohibited by the United States Constitution. In both of these cases, the defendant's convictions were reviewed by state and federal appellate courts on numerous occasions and grounds. The U.S. Supreme Court has repeatedly held that capital punishment itself does not violate the U.S. Constitution. Implementation of the death penalty in the United States is undertaken with exacting procedural safeguards and after multiple layers of judicial review, in accordance

with our obligations under the ICCPR, the U.S. Constitution, and other applicable federal and state laws.

We note that the European Union Delegation to the United States has sent similar appeals to Governor Otter and the Commission of Pardons and Parole in Idaho. The European Union can be assured that appropriate officials will also be apprised of its appeal today.

Mr. Chairman, we recognize that there is intense public discussion and debate on the issue of the imposition of the death penalty both within and among nations. While we respect the views shared by those who seek to abolish capital punishment, the ultimate decision regarding this issue must be addressed through the domestic democratic processes of each nation and of course remain consistent with each nation's obligations under international law.

Thank you, Mr. Chairman.