



United States Mission to the OSCE

Response to EU Statement on the Death Penalty in the USA

As delivered by Ambassador Ian Kelly
to the Permanent Council, Vienna
September 1, 2011

We note the European Union's expression of concern 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 the most serious crimes, such as felony murder, generally when carried out in aggravating circumstances. And we simply disagree with the categorical assertion that the death penalty has not been found to act as a deterrent.

In the case of Robert Jackson in Delaware, the defendant was convicted of the brutal axe murder of 47 year-old mother, Elizabeth Giardi, on April 3, 1992, after Jackson and an accomplice broke into her home to steal money for drugs. Jackson was executed by lethal injection on July 29, 2011, in accordance with Delaware state law.

In the case of Manuel Valle in Florida, the defendant was convicted of the first-degree murder of police officer Louis Pena, the attempted first-degree murder of a second police officer, and possession of a firearm by a convicted felon. Mr. Valle's sentence is set to be carried out on September 6, 2011. In this case, Officer Pena of the Coral Gables Police Department was on patrol on April 2, 1978, when he stopped Mr. Valle and a companion for a traffic violation. After getting out of his car to speak with Officer Pena, Mr. Valle walked back to his vehicle, retrieved a weapon, approached Officer Pena and fired a single shot, resulting in the policeman's death. He then fired two more shots at a second police officer and fled the scene. The trial court found the existence of several aggravating factors, including Mr. Valle's previous conviction for a felony involving the use or threat of violence; the cold, calculated, and premeditated manner of the killing, without any pretense of moral or legal justification; and the fact that the victim was a law enforcement officer engaged in the performance of his official duties at the time of the murder.

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 exhaustive protections to ensure that the death penalty is not applied in an extra-judicial, summary, or arbitrary manner, and that its imposition does not constitute cruel or unusual punishment as prohibited by the United States Constitution. In both of these cases, the defendants' 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. Thus capital punishment may only be carried out in the U.S. subject to extensive due process and equal protection requirements, and after exhaustive appeals.

Mr. Chairman, the issue of the imposition of the death penalty continues to be the subject of vigorous and open discussion among the American people.

Thank you, Mr. Chairman.