

In the International Court of Justice:

The Federal Republic of Germany,

Applicant

v.

United States

Respondent

MEMORIAL OF THE FEDERAL REPUBLIC OF GERMANY

COMES NOW the Federal Republic of Germany and for their Memorial to the Court states the following:

STATEMENT OF THE LAW:

IV. International law and treaty recognizes that nationals in a host country are subject to the laws of that country but shall be granted the opportunity to seek consular support from their domicile country.

V. The Vienna Convention on Consular Relations affirms the above statement and distinguishes that a receiving State is responsible, under Article 36, to inform detained nationals of a foreign nation of their right to counsel and to consular support from their country of origin. The United States and Germany both were signatories to the Vienna Convention and are subject to its mandates and provisions.

VI. Article 5(a) of the Vienna Convention of Consular Relations avows the purpose of consular relations is to provide protection to the sending State's government and its nationals present in the receiving State. This action is permitted in conjunction with the consent of the receiving State to establish a foreign diplomatic office in the receiving States jurisdiction. All security

provisions shall be permitted in accordance with the limits described by international law and treaties.

VII. The Vienna Convention on the Law of Treaties details that an approved diplomat of a State is the legal representation for providing expression of his or her country of origin when discussing international diplomatic procedures and mandates. A signature of the legal representative serve as the statement of authenticity elucidating that State is in agreement with all aspects of the treaty. The act of signing a treaty indicates the representatives' affirmation that his or her country of origin will abide by the provisions listed in the treaty.

STATEMENT OF FACT:

Karl and Walter LaGrand were involved in a bank robbery on January 7th 1982, during which a bank manager was killed. Two years later an Arizona State Court found Karl and Walter guilty of first-degree murder and sentenced both of them to death; this fact is accepted by both parties. This case concerns the United State's violation of the article 36 of the Vienna Convention on Consular Relations due to the fact that the German consular point was not promptly notified of the brother's arrest. This is a serious problem because the United States has signed and agreed to all terms in the VIENNA CONVENTION ON CONSULAR RELATIONS. Even after the International Court of Justice had been notified of the irregular proceedings of the United States, Walter LaGrand was still executed by lethal injection. The International Court of Justice asked the United Sates to suspend the execution until after the German consul had proper time to review the case; the United States did not delay the execution.

STATEMENT OF JURISDICTION:

The Court has jurisdiction to hear this case due to the understanding that the State of Arizona and the United States do not have the authority to deny consular assistance. By signing the Vienna Convention on Consular Relations, the United States is subject to

all provisions and mandates illustrated in the treaty. In accordance with the Vienna Convention on Consular Relations, the United States authorities failed to inform Karl and Walter LaGrand of their right to receive consular support. The United States continued in its negligence even after becoming aware of the LaGrands' status as German nationals. This Court required American officials to resist executing Walter LaGrand under provisional measures set forth upon complaint by German officials after the execution of Karl LaGrand. In addition, the Vienna Convention on Diplomatic Relations and Optional Protocol on Disputes dictate that any disputes relating the interpretation of international, bilateral or multilateral treaties, established through Convention proceedings, shall be under the compulsory jurisdiction of the International Court of Justice.

ARGUMENTS

VIII. The United States violated a multilateral treaty on consular relations.

The United States of America violated the codes set forth in the Vienna Convention on Consular Relations, an agreement the United States signed. The United States should be held accountable for the excessive and unreasonable execution of two German nationals. In accordance with the Vienna Convention on Consular Relations, the LaGrand brothers should have been allowed communication with the German officials when arrested in 1982. This pertinent mandate was not proffered to the brothers, even after becoming conscious of their rights. The LaGrand brothers had to notify the German consul themselves years after their trial had been decided.

IX. The LaGrand brothers were denied their rights to consular communication.

Article 36 of the Vienna Convention on Consular Relations dictates the communicative and contact capabilities the sending state has with its nationals held in the receiving state. Sub-point 1(a) provides that the sending State and its nationals shall be free to communicate with each other at the will of these parties. The statute should thus provide assurance to the LaGrands that they will be granted a fair trial with adequate consular representation administered by [German] officials. Adhering to this proviso, the United States violated the brothers' rights to open communication with the German

consulate.

Sub-point 1(b) provides that if a national of any sending State is detained in by another State, then the detained shall be granted communicative measures without delay. The brothers were German nationals, though having living in the United States for the majority of their lives, and should have been informed of and permitted to exercise their rights to consular support. The United States federal government and the state government of Arizona violated this explicit right. Sub-point 1(c) dictates that if a national so wishes to discuss matters with a consular officer, the officer shall be permitted to visit and converse with the detained national for the purpose of legal representation.

X. The United States neglected to inform the German consulate of the detainment and sentencing of German nationals.

The United States failed to notify the German consular point in a timely manner. The LaGrand Brothers were convicted of first-degree murder in 1984, yet the German counsel was not notified of the arrest and sentencing until 1992 when the LaGrand Brothers specifically asked Arizona authority to notify the German consular. This is a lucid violation of the procedures set forth by Article 36 of the Vienna Convention on Consular Relations, an agreement in which the United States and Germany are both signatory countries.

XI. The United States did not adhere to the Vienna Convention

The Vienna Convention on Consular Relations mandates that all consular relations be established with complete consent of both States. Additionally, Article 4 dictates that a consular post may be constructed with the permission of the receiving State's approval. Since the United States approved, and continuously permits, the German government the capability to establish and maintain an embassy, the Vienna Convention on Consular Relations thus is applicable. Additionally, the United States did not comply with its signatory acknowledgment of the Vienna Convention on Consular Relations, the Vienna Convention on the Law of Treaties and Vienna Convention on Diplomatic Relations.

SUMMARY

While the actions of the United States cannot be undone, Germany deserves justice for the execution of two of our nationals, Karl and Walter LaGrand. The United States acted in complete disrespect for the Federal Republic of Germany, and while there are few redeemable qualities in this case, justice must be served. We urge the Court to consider the responsibility of participating States to adhere to treaties established and affirmed by individuals from the member States.