

The International Court of Justice
of the
American Model United Nations

ARGUED: November 23, 2008
DECIDED: November 23, 2008

THE FEDERAL REPUBLIC OF GERMANY v. THE UNITED STATES OF AMERICA

PRESENT: President Redick, Vice President Meyer, Justices Bathke, Bauer-Nilsen, Blackwell, Burchfield, Collins, Garber, Hammond, Hillenbrand, Kraker, McCracken, Mosher, Skrepnik, Sodini, Williams and Zurek

The court accepts jurisdiction on *The Federal Republic of Germany v. The United States of America* based on the compliance of the parties in accordance with Article 36, subsection 1 of the Statute of the International Court of Justice and Article 1 of the Optional Protocol Concerning the Compulsory Settlement of Disputes. The court believes that this issue is substantive because the conflict involves the sovereign nation-states of the Federal Republic of Germany and the United States of America.

The Court,
composed as above,
delivers the following Judgment

1. The Federal Republic of Germany argued before the Court that “*The United States of America violated the [consular relations] codes set forth in the Vienna Convention on Consular Relations, an agreement the United States signed.*” The Court finds this to be in the affirmative. Under Article 36 of the Vienna Convention on Consular Relations (VCCR), states who are party to the convention are responsible for informing foreign nationals of their right to consular communications. Being a signatory of the VCCR, the United States of America is subject to all articles and provisions of the document, as ratified by the Congress of the United States.
2. Furthermore, Germany claimed that the LaGrand brothers’ right to consular communications under the VCCR, was violated. The guidelines for communication and contact with nationals of the sending state are explicitly laid out in Article 36, paragraph 1 of the VCCR. The United States’ failure to notify the LaGrand brothers of their rights to consular relations was directly in violation of the provisions set forth in Article 36, paragraph 1, sub-point (b). This court finds that this failure to notify the brothers resulted in the violation of sub-points (a) and (c).
3. In regards to Germany’s third argument, the court finds that the United States did not notify the German Consulate of the brothers’ detention. However, no provisions of the aforementioned

Convention legally require the receiving state (United States) to inform the sending state (Germany) of such a detention.

4. Germany also contends that the United States did not abide by the Provisional Measures of Protection as required by Article 1 of the Optional Protocol of the VCCR, which both countries had previously ratified. This protocol subjects all nation-states party to the VCCR to the compulsory jurisdiction of this court in the event of a dispute. Therefore the United States of America is subject to this court's Provisional Measures, specifically the stay of Walter LaGrand's execution.

5. Germany's assertion that the United States is attempting to retract previous statements is not germane to the application of law in this case.

6. In addressing Germany's argument regarding consideration of precedent, under Article 59 of the Statute of the International Court of Justice this Court's precedent is not binding. However, it can be used as a guideline for future decisions.

7. Germany's final argument that the United States was in violation of the Vienna Convention on the Law of Treaties (VCLT) holds no sway in the application of law in this specific case due to the fact that the United States has merely signed but not ratified this treaty. While customary international law dictates that a signature of a state to a treaty implies recognition and adherence to said treaty, the VCLT is immaterial to this case because the provisions addressed in Article 27 are also addressed in Article 36 of the VCCR, to which both Germany and the United States are ratified parties.

8. In response to the arguments presented by the United States, this Court finds that the United States neglected to follow the provisions as stated in Article 36, paragraph 2 of the VCCR. Paragraph 2 states, "*The rights referred to in paragraph 1 [consular communication] of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended.*" Having signed this treaty the United States adopted this treaty as domestic law, thereby clarifying any ambiguity of its application. Furthermore, this Court is of the opinion that had the United States followed the provisions of the VCCR the question of procedural default would never have arisen.

9. Throughout the course of oral arguments the United States contended that the VCCR does not apply to individual citizens. This contention directly contradicts Article 5, section (a) of the VCCR which states that consular functions consist in: "*protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law.*"

For these reasons,

The Court,

Unanimously

Finds that the failure of the United States to grant consular communication to the LaGrand brothers violates the Vienna Convention on Consular Relations; furthermore the United States'

disregard of this Court’s provisional measure violates the Optional Protocol Concerning the Compulsory Settlement of Disputes. Finally, we encourage that individual states continue to follow international treaties and encourage treaty parties to seek redress of treaty violations through the stipulated provisions of the appropriate treaty.

President Redick

Vice President Meyer

Justice Bathke

Justice Bauer-Nilsen

Justice Blackwell

Justice Burchfield

Justice Collins

Justice Garber

Justice Hammond

Justice Hillenbrand

Justice Kraker

Justice McCracken

Justice Mosher

Justice Skrepnik

Justice Sodini

Justice Williams

Justice Zurek

