



*American Model United Nations*  
**ICJ**

IN THE INTERNATIONAL COURT OF JUSTICE

THE FEDERAL REPUBLIC OF GERMANY, APPLICANT

V.

THE UNITED STATES OF AMERICA,  
RESPONDENT

MEMORIAL OF THE UNITED STATES OF AMERICA

COMES NOW the United States of America and for their Memorial to the Court states the following:

**STATEMENT OF LAW:**

1. The Vienna Convention on Consular Relations of 1963, to which Germany and the United States are party, states in Article 36 that consular officers shall have the right to communicate with imprisoned or arrested nationals and arrange for their legal representation if the arrested individual so chooses. The Convention also states that arrested nationals shall have be informed of their right to seek counsel from their home country's consular office. Such rights will be provided for pursuant to the laws of the receiving country.

2. The Vienna Convention on the Law of Treaties of 1969, to which Germany and the United States are party, states in Section 3, Article 31 that the wordings of treaties are to be interpreted with consideration of their purpose and with regard to other agreements between the parties.

3. The Charter of the United Nations states in Article 94 that any state of the United Nations will comply to the decision of the International Court of Justice in a case in which it is a party.

4. The doctrine of procedural default in US federal courts provides that a prisoner seeking to appeal the decision of a state court in their case must do so on grounds that were previously brought up in their defense in that state court.

**STATEMENT OF FACT:**

In 1983, German brothers Karl and Walter LaGrand were convicted of first-degree murder in state court in Arizona of first-degree murder, a capital offense in that state, and

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sentenced to death. The LaGrand brothers had American representation in that case. In 1992, the Federal Republic of Germany learned about this case and the death sentences of the LaGrands when the two prisoners contacted German consular authorities.

On March 2, 1999, soon after Karl LaGrand's execution in February 1999, Germany requested that the International Court of Justice provisionally rule that the United States should do whatever possible to put off the execution of Walter LaGrand until a final ruling could be made, and the ICJ responded with such a provisional decision. Germany raised the issue in the United States Supreme Court, which declined Germany's petition. Walter LaGrand was executed the next day by Arizona penal authorities.

## **ARGUMENTS**

1. Though the Arizona authorities were incorrect in failing to inform the LaGrands of the wording of the Vienna Convention of 1969 with regard to consular representation, the brothers' failure to raise this issue in their original trial meant that the issue could not be raised in a US appellate court, which has jurisdiction over such proceedings. The arrangement of the brother's legal representation by German consular officers would not have led to a different outcome in their trial and thus does not constitute an acceptable basis for appealing their sentences.
2. Because no reasonable assessment can be made that the terms of the Vienna Convention of 1969 would have altered the outcome of this case, the United States bears no liability for allowing the authorities in the State of Arizona to conduct the executions of Karl and Walter Lagrand. The Convention cannot be understood to apply any liability to the United States for carrying out its own domestic legal affairs.
3. The United States' domestic legal system is not bound to abide by provisional decisions of the International Court of Justice that are put in place before a final decision. Even if this were the case, the United States Federal Government does not have legal obligations in place to force it to supersede Constitutional law and stay such an execution.

## **SUMMARY AND REQUESTS**

The United States is not liable for violating international law by operating under its domestic legal principles. The appeal raised by the LaGrand brothers and the Federal Republic of Germany is not valid under US law. Unfortunately, the LaGrand brothers did experience a misapplication of the law, but this was not grounds to overturn their sentence and is not grounds for the United States to have to pay reparations to Germany for the sake of two convicted murderers. The United States requests that the International Court of Justice deny Germany's request for reparations and interference with US domestic law.