



Avena and Other Mexican Nationals (Mexico v. The United States of America)

ARGUED: 24 November 2019

DECIDED: 25 November 2019

1 The Majority Opinion was signed and agreed upon by President Mach of Cameroon, Justice Peavey of
2 Singapore, Justice Anderson of Austria, Justice Boxall of South Africa, Justice Grapes of the Russian Federation,
3 Justice Remington of Switzerland, Justice Wallen of Ireland, Justice Marr of the Islamic Republic of Iran, and Justice
4 Castellanos of the Democratic Peoples Republic of Korea.

5 The case brought before this Court by the United Mexican States (hereafter Mexico) regarding a claim
6 that the United States of America (hereafter U.S.) has breached Articles 5 and 36 of the Vienna Convention on
7 Consular Relations (hereafter Vienna Convention). Mexico requests that the Court finds the U.S. in violation of
8 the Vienna Convention for convicting and sentencing approximately 54 Mexican Nationals to capital punishment
9 without properly notifying the consulate or notifying the National of their rights to contact their consul. The U.S.
10 claims that the jurisdiction of this Court violates their sovereignty in this case, and that the power of this Court is
11 a violation of their domestic law.

12 The Court finds this matter is directly concerning the Vienna Convention, and being that both parties have
13 opted into the Optional Protocol, we believe that the International Court of Justice has jurisdiction to decide on this
14 case. The Court finds they hold jurisdiction under Article 1 of the Optional Protocol within the Vienna Conventions
15 Compulsory Settlement of Disputes, Chapter XIV Article 94 of the United Nations Charter, and the Supremacy
16 Clause of the U.S., which states as follows,

17 This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all
18 treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the
19 land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the
20 contrary notwithstanding.

21 Therefore, the Court rules the following,

22 The Court was unable to reach a decisive and conclusive ruling due to the lack of evidence from both
23 parties, vagueness of the Vienna Convention, and complexity of each Nationals unique situation. Thus, we urge the
24 two parties to take this case to the Permanent Court of Arbitration and improve the proceedings in the following
25 ways regarding the retrial and expression of rights for the Mexican Nationals in questions:

26 1) Both Mexico and the U.S. need to provide sufficient evidence of the nationality and citizenship of each
27 individual National in the case at hand;

28 2) Both Mexico and the U.S. need to provide sufficient evidence on whether the individual National was
29 properly informed of their full rights under the Vienna Convention, their consul was informed of each National's
30 detention, or if neither of these actions took place;

31 3) If it is found that the National had not been informed of their rights and their consul also had not been
32 informed, then it is the opinion of this Court that the National did not receive a fair trial. In such instances, the
33 affected Nationals trial should be labeled as a mistrial, and they should receive a new trial. If the National so chooses,
34 then they may receive the aid of the consulate;

35 4) If it is found that the National had dual citizenship but that they were not informed of their full rights,
36 then the Vienna Convention was violated. As the Nationals Mexican citizenship guarantees them a right of assistance

37 from their consul despite also having US citizenship, then a resolution must be made that is not inconsistent with
38 the provisions herein;

39 5) If it is found that the National had been informed of their full rights and, in light of that information,
40 still chose not to seek assistance from their consul, then there was no violation of the Vienna Convention;

41 6) If it is found that the National had not been informed of their full rights but their consul had been
42 informed of their detention, then the Court finds that the Vienna Convention was violated. A mistrial should be
43 declared in such instances, when the National was not duly made aware of their right to contact their consul and
44 thus remained ignorant of this option.

45 The Courts urges member states to amend the Vienna Convention by clarifying the meaning of without
46 delay, as well as the vague and contradictory nature of the statements within Article 36 paragraph 1, subparagraphs
47 (b) and (c) of the Vienna Convention. With regard to this case, the Court has decided that in this specific instance,
48 the U.S. had ample time to notify the Nationals and/or their relevant consul(s); thus, we have provided guidelines
49 for this specific case.

50 Finally, we have already granted a Provisional Measure for the stay of execution of those Nationals, and we
51 would like to extend this stay of execution until the case is settled.

Signed By

Justice Elliot Anderson

Justice Raegan Mach

Justice Simon Oliver Boxall

Justice Ashton Kimberly Marr

Justice Tiana-Marie Peavey

Justice Kadir Castellanos

Justice Blair Remington

Justice Karissa Grapes

Justice Megan Wallen