



EUROPEAN UNION
DELEGATION TO THE UNITED STATES OF AMERICA

The Head of Delegation

Washington, 18 September 2015
del-usa.001.dir(2015)4335224
KB/BW/st

The Honourable Terry McAuliffe
Governor
Commonwealth of Virginia
State Capitol, 3rd Floor
Richmond, VA 23219

Fax: 804 371 6351

Dear Governor,

The European Union takes note of the fact that Alfredo Prieto, a Salvadorian national, is to be executed in the State of Virginia on 1 October 2015. The EU, represented by its Delegation to the United States, wishes to make an urgent humanitarian appeal on behalf of Mr Prieto on the grounds of the evidence of his mental retardation.

The EU is opposed to the use of capital punishment under all circumstances and accordingly aims at its universal abolition, seeking a global moratorium on the death penalty as a first step. We believe that the elimination of the death penalty is fundamental to the protection of human dignity, and to the progressive development of human rights. By its very nature, the execution of the death penalty means that any miscarriage of justice or failure in its application cannot be reversed. No legal system is immune from error, nor is there any reliable evidence to support the argument that death penalty is deterrent to serious crime.

The EU considers that in countries which have not yet abolished the death penalty, this penalty should not be imposed on persons suffering from mental disorder or mental retardation or deficiency. We note with concern that there is evidence to suggest that Mr Prieto suffers from mental retardation. We point out that the standards of assessing intellectual disability and eligibility for execution such as those used in Virginia's justice system have previously been put in question by the US Supreme Court (*Atkins v Virginia*). The EU strongly supported Mr. Atkins's position in that case and filed an amicus curiae brief to that effect which was cited by the majority opinion of the Court. We are similarly concerned that the strict standards for determining intellectual development used by the State of Virginia were recently declared invalid by the US Supreme Court in *Hall v Florida* decision

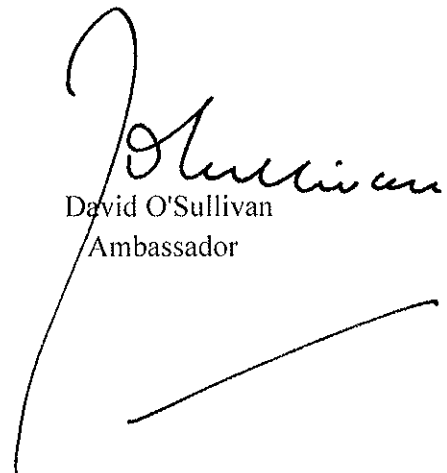
of this year. We also note that motions for relief based on Mr Prieto's intellectual disability are still pending in both the California Supreme Court and Federal District Court.

The EU strongly believes that the execution of persons suffering from mental disorder or mental retardation is contrary to widely accepted human rights norms and is in contradiction to the minimum standards of human rights set forth in several international human rights instruments as well as prohibited in the US Constitution. The EU has been stating its position with regard to practices in Virginia on several occasions since 2001. The EU would also like to point out that there is growing international consensus against the execution of persons with mental retardation.

The EU recognises the serious nature of the crimes involved, and wishes to express its sincere sympathy to the family and friends of the victims, but we do not believe that the use of the death penalty can be justified.

The European Union respectfully urges you, Governor, to exercise your powers and grant a reprieve in Mr Prieto's case on humanitarian grounds.

Sincerely,



David O'Sullivan
Ambassador