



EUROPEAN UNION
DELEGATION TO THE UNITED STATES OF AMERICA

The Head of Delegation

Washington, 19 December 2013
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The Honorable Rick Perry
Governor of Texas
State Capital
P.O. Box 12428
Austin, Texas 78711-2428

Fax 512 463 1849

Dear Governor Perry,

Subject: Death Penalty Case - Mr Edgar Tamayo Arias

The European Union is writing to make an urgent appeal on behalf of Mr Edgar Tamayo Arias, whom we understand has received a date for execution of January 22, 2014.

The European Union recognizes that a terrible crime lies at the heart of this case and extends its sympathy to the family of the victim.

However, it appears that Mr Edgar Tamayo Arias was not informed, at the time of his arrest, about his right of consular notification, established in the Vienna Convention of Consular Relations, Article 36.

On March 31, 2004, the International Court of Justice (ICJ) ruled in the case concerning *Avena* and other Mexican nationals (*Mexico v. United States of America*) that the United States had violated Article 36 of the Vienna Convention on Consular Relations and held that Mr Tamayo Arias is entitled to review and reconsideration of his sentence to determine whether, and how, he was prejudiced by the violation of his consular rights. The European Union acknowledges that the United States has recognized its international legal obligation to implement the remedies mandated by the ICJ in this judgement. However, in *Medellin v. Texas*, the United States Supreme Court held that Congress must pass legislation implementing the *Avena* judgment before it can be enforced by U.S. Courts. The European Union is aware that legislation is under discussion in the U.S. Congress with the objective to implement the *Avena* ruling at the local level.

All Member States of the European Union are party to the Vienna Convention on Consular Relations. As such, the EU has an interest in securing compliance with the rights guaranteed under Article 36 and considers the observance of treaty obligations to be of vital importance to all aspects of the transatlantic relationship.

European Union Member States consider consular access to be of critical importance. A foreign national faces unique disadvantages when left to navigate a foreign country's legal system in the absence of support from his home country, even if he is represented by competent legal counsel. Enforcement of treaty obligations depends on reciprocal compliance by all states party to the Convention.

The European Union is concerned that if Mr Tamayo Arias is executed before receiving the remedy to which he is entitled under the *Avena* judgment, an undisputed international obligation will be breached. Such a breach would undermine the international rule of law and could potentially impede the ability of consular officials around the world to carry out their duties.

Therefore, the European Union respectfully urges you to grant Mr. Tamayo Arias a reprieve, thus allowing time for Congress or the Texas legislature to pass legislation implementing the ICJ's *Avena* judgment.

Yours sincerely,

A handwritten signature in blue ink, consisting of a stylized 'J' followed by a long horizontal line that curves downwards at the end.

João Vale de Almeida
Ambassador