

Governor Timothy M. Kaine
Office of the Governor
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

Washington, DC, February 2, 2009

Dear Governor,

The European Union takes note of the fact that Mr. Edward Nathaniel Bell, a Jamaican national, is to be executed in the State of Virginia on February 19, 2009. Representing the European Union, the Czech Republic, as the current Presidency of the Council of the European Union, together with Sweden, the incoming Presidency, and the European Commission, would like to make an urgent humanitarian appeal on behalf of Mr. Edward Nathaniel Bell.

The European Union 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. The European Union notes that on December 18, 2007, the United Nations General Assembly adopted a resolution on the death penalty that expressly asks all nations that still use the death penalty to institute a moratorium on executions with a view to abolishing the practice.

The European Union considers that in nations, which have not as yet abolished the use of capital punishment, the death penalty should not be imposed on persons suffering from a mental disability or disorder. In the present case, the European Union notes that there is an evidence that Mr. Bell may suffer from mental retardation. The European Union recalls the United States Supreme Court's decision in the case of another Virginian inmate, Daryl Atkins, in *Atkins v Virginia*, which banned the execution of persons with mental retardation. The European Union underlines the similarity with the case of Mr Bell who may also suffer from "mild" mental retardation.

The European Union considers that the execution of people with mental disabilities or disorders is contrary to widely accepted human rights norms and contradicts the minimum standards of human rights set forth in several international instruments. Among these are the United Nations Economic and Social Council (ECOSOC) Resolution 1996/15 on the safeguards guaranteeing protection of the rights of those facing the death penalty, in addition to Resolution 2005/59, adopted by the United Nations Commission on Human Rights which specifically urges all states that still maintain the death penalty "[n]ot to impose the death penalty on a person suffering from any mental or intellectual disabilities or to execute any such person".

On this ground, the European Union urges you, Governor, to review the sentence.

Furthermore, it has come to the attention of the European Union that the Virginian authorities failed to notify Mr. Bell of his right to contact a Jamaican Consulate for assistance at the time of his arrest, as required by the Vienna Convention on Consular Relations. The right to consular notification and assistance, according to article 36 of the Convention, is intended to redress the inherent disadvantages facing detained foreign nationals in any country. Like the United States, all EU member states are parties to this international treaty. The European Union is convinced that the observance of these safeguards provided by the Convention is indispensable and may be decisive, not least in capital cases. On 19 January, 2009, the International Court of Justice reaffirmed the obligation of the United States, under its 2004 judgment in *Avena and other Mexican Nationals (Mex. v. U.S.)*, to provide review and reconsideration of the case if the competent authorities failed to comply with their obligations to provide the requisite consular information.

Therefore, appreciating your publicly stated personal opposition to the death penalty and taking account of the above mentioned reasoning, we respectfully urge you, Governor, to exercise all powers vested in your office to review the case of Mr. Edward Nathaniel Bell and grant him relief from the death penalty.



Petr Kolář

Jonas Hafström

Ambassador of the Czech
Republic

Ambassador of Sweden



John Bruton

Ambassador for the Delegation
of the European Commission