

1. COHOM conclusions of 13 April 2011

COHOM agreed that there should be discreet EU action on the Troy Davis case as soon as possible. This should take the form of a coordinated, verbal approach on behalf of the EU by a number of consuls from EU Member States based in Atlanta to the Governor of Georgia. Given the sensitivities of the case, COHOM tasked the EU Delegation and Member State Embassies in Washington to agree on an 'EU script' for Atlanta consuls, in close coordination with Anne James, in order to ensure accurate and up-to-date information and to coordinate which MS would participate in the approach.

2. Background on Troy Davis case

Troy Davis may soon face execution despite serious doubts that continue to persist in his case.

The Board of Pardons and Paroles is the final failsafe in Georgia that can prevent an execution. They have the power to commute Davis' sentence to life, preventing the irrevocable step of killing the prisoner. The Board said in this case in 2007 that it would not allow an execution to go ahead 'unless and until its members are convinced that there is no doubt as to the guilt of the accused.' Doubts persist in this case.

Davis was sentenced to death row in 1991 for the 1989 murder of off-duty police officer Mark Allen MacPhail in Savannah, Georgia.

No physical evidence directly links Davis to the murder - no murder weapon was ever found.

The case against Davis primarily rested on the testimony of the nine witnesses. Since his trial, 7 of the 9 key witnesses have recanted or changed their testimony, some alleging police coercion.

Davis has faced execution three times, once coming within two hours of execution.

In 2009, the US Supreme Court ordered an evidentiary hearing to review Davis' actual innocence claim, which took place in Savannah's federal district court in 2010. The presiding judge ruled that Davis did not prove his innocence under what the judge described as the required 'extraordinarily high' standard. However, rather than resolve the doubts about Davis' guilt, the hearing demonstrated that doubts persist in the case. Without the aid of physical evidence, he had to rely on witnesses whose statements were readily relied upon by the state at trial, but whose post-trial revisions and recantations have been dismissed throughout the appeals process.

At the hearing, a witness offered new testimony that he claimed he was too fearful to offer in the past. He testified to seeing the alternative suspect in the case, a relative of his, shoot Officer Mac Phail. Additionally, new witnesses emerged to testify that the alternative suspect confessed to them that he had committed the murder. Their testimony was dismissed by the court as not credible.

The federal judge acknowledged that the state's case against Troy Davis was not 'ironclad'.

Davis is now at risk of receiving an execution date because the US Supreme Court on 28 March 2011 refused to consider his final appeal.

Georgia does not currently have the drugs needed to carry out executions; however, this may or may not cause much delay as authorities may be able to acquire new drugs soon.

Troy Davis' case underscores reasons why the death penalty should be abolished. 138 people have been exonerated from US death rows since 1973; others may have been executed despite serious doubt about their guilt. There is no convincing evidence that the death penalty has a special

deterrent effect and capital prosecutions come with huge financial costs, far higher than ordinary criminal justice cases. The cost of the death penalty diverts resources from more constructive solutions, such as support for law enforcement and crime prevention and services for murder victims' families. We can have justice without the death penalty.

3. EU action on the Troy Davis case

The EU has made a number of interventions and statements in the case of Troy Davis.

1. Letter to Georgia Board of Pardons & Paroles, September 11, 2008
2. European Parliament's Urgent Appeal to Georgia Governor Perdue, September 22, 2008.
3. French Foreign Affairs/Human Rights Minister's Appeal to Georgia Board of Pardons & Paroles, October 14, 2008
4. European Parliament Resolution, October 22, 2008
5. European Parliament President's Press Statement, October 22, 2008
6. French Foreign Affairs/Human Rights Minister's Appeal to Georgia Governor Perdue, October 22, 2008
7. EU Presidency's Declaration, October 22, 2008
8. Letter to Georgia Board of Pardons & Paroles, October 23, 2008
9. EU Statement at OSCE (Organization for Security & Cooperation in Europe), October 23, 2008
10. Troy Davis v. Georgia: Stay of Execution Granted: EU Statement, October 24, 2008
11. 15 May, 2009. EU statement following the filing of a final appeal at USSC.

Declaration by the Presidency on behalf of the European Union on the death penalty of Mr Troy Davis in the United States (15 May 2009)

The European Union is monitoring the latest developments in the case of Mr. Troy Davis, a U.S. citizen who was scheduled to be executed in the State of Georgia in September, 2008 and again in October, 2008 when a provisional stay was issued.

The EU would like to reaffirm its longstanding opposition to the use of the capital punishment under all circumstances. It considers the abolition of the death penalty to be essential for the protection of human dignity and the progressive development of human rights.

The EU further wishes to reiterate its concern as regards the continued uncertainty surrounding the case of Mr. Davis, uncertainty which has lead to questions as to his culpability. The European Union believes that this case illustrates one of the most alarming consequences associated with the use of capital punishment – the execution of a potentially innocent person.