

Original: ENGLISH



## **United States Mission to the OSCE**

# **Statement in Response to the European Union and San Marino's Statements on the Death Penalty**

As delivered by Ambassador Ian Kelly  
to the Permanent Council, Vienna  
May 13, 2010

Thank you, Mister Chairman.

We want to thank the European Union and San Marino for their expressions of concern regarding the death penalty in the United States and we want to assure them that we will inform the appropriate authorities in the State of Utah of their statements.

As we have noted before, Mister Chairman, the use of the death penalty in the United States is a decision of democratically elected governments at the federal and State levels and is not prohibited by international law. Capital punishment does not violate any OSCE commitments. The people of the United States, acting through their freely elected representative, have chosen, in most States, not to abolish the death penalty.

The U.S. judicial system does provide exhaustive protections to ensure that the death penalty is not applied in an extra-judicial, summary, or arbitrary manner. The U.S. Supreme Court has repeatedly held that capital punishment itself does not violate the U.S. Constitution. However, capital punishment may only be carried out subject to the extensive due process and equal protection requirements and after exhaustive appeals.

Regarding this case, we would like to point out that Ronnie Lee Gardner was convicted in 1985 by a jury of his peers for the fatal courthouse shooting of attorney Michael Burdell. Under Utah law, during sentence deliberations, all jurors must agree that the death penalty is warranted. If not, the sentence is reduced to life in prison without the possibility of parole. The decision in this case, by the jury, was unanimous. The Utah Supreme Court, in order to ensure due process, has agreed to hear an expedited appeal regarding Gardner's conviction on June 3. In previous appeals, Gardner's conviction and sentence have been affirmed by the Utah Supreme Court three times. The federal district and appeals courts also upheld the convictions.

Mr. Chairman and colleagues, I would like to assure you that the issue of the imposition of the death penalty continues to be the subject of vigorous and open discussion among the American people.

Thank you, Mister Chairman.