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United States Mission to the OSCE

Response to the Death Penalty in the United States

As delivered by Ambassador Ian Kelly
to the Permanent Council, Vienna
April 22, 2010

We want to thank the European Union for its expression of concern regarding the death penalty in the United States and note that a similar appeal regarding Mr. Smith's case was sent to Governor Brad Henry of Oklahoma by the EU Mission to the United States on April 15.

As we have said on numerous occasions, 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, nor does capital punishment violate any OSCE commitments. The people of the United States, acting through their freely elected representatives, have chosen, in many but not all states, to continue the use of the death penalty.

The U.S. judicial system provides 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.

As part of this process, we note that Governor Brad Henry of Oklahoma has granted a stay of execution in Mr. Smith's case to give himself ample time to review the Pardon and Parole Board's recommendation that clemency be granted and that his sentence of death be commuted to life without the possibility of parole. Governor Henry will meet with both prosecution and defense attorneys and allow them to present their respective cases to him. The governor and members of his legal staff also will review the board's clemency recommendation, the case file and any other related materials.

Mister Chairman, I assure you and my colleagues here that the issue of the imposition of the death penalty continues to be the subject of vigorous and open debate among the American people.

Thank you, Mr. Chairman.