

URGENT ACTION

TEXAS EXECUTION VIOLATES INTERNATIONAL LAW

Texas executed a Mexican national on 22 January, in violation of an order of the International Court of Justice and despite a recent finding by the Inter-American Commission on Human Rights that he had been denied a fair trial.

Edgar Arias Tamayo was sentenced to death for the murder of a police officer in 1994. He was denied his right to seek consular assistance “without delay” after arrest, as required by the Vienna Convention on Consular Relations (VCCR). Without access to the assistance the consulate later provided, Edgar Tamayo’s trial lawyer failed to present a range of mitigating evidence, including of his client’s mental impairments. In 2008, a psychologist assessed Edgar Tamayo as having “mild mental retardation”.

The International Court of Justice (ICJ) ruled in March 2004 that the USA had violated article 36 of the VCCR in the cases of 51 Mexican men sentenced to death in the USA, including Edgar Tamayo. The ICJ ordered the USA to provide judicial “review and reconsideration” of the convictions and sentences to determine if the men’s defence was harmed by the VCCR violations. Edgar Tamayo never had the judicial review ordered by the ICJ.

The Inter-American Commission on Human Rights determined on 15 January 2014 that the USA’s failure to respect its VCCR obligations had deprived Edgar Tamayo of his fair trial rights and that his execution would constitute “a serious and irreparable violation of the basic right to life”.

The Texas Board of Pardons and Paroles revealed on 21 January that it had voted against recommending the Governor commute the death sentence or issue a reprieve. Governor Rick Perry could still have halted the execution. A spokesperson for the governor said, “It doesn’t matter where you’re from. If you commit a despicable crime like this in Texas, you are subject to our state laws, including a fair trial by jury and the ultimate penalty.”

The execution, originally scheduled for 6pm local time was delayed until the US Supreme Court decided whether to intervene. The final order announcing that the Court would not intervene came in around 9pm and noted that three of the nine Justices would have granted a stay of execution. The execution went ahead. Edgar Tamayo was pronounced dead at 9.32pm, 17 minutes after the lethal injection had begun.

The Mexican government issued a statement “lamenting” the execution of its national and calling for “effective action” to avoid other executions from being carried out “in contempt” of the ICJ order, executions which would “damage the regime of consular assistance and protection as agreed between the countries”.

A spokesperson for the US Department of State said that the Department “regretted” the decision taken by Texas to go ahead with the execution without the review and reconsideration ordered by the ICJ. She said that US compliance with the ICJ judgment “is critical to our ability to ensure consular access and assistance for our own citizens who are arrested or detained by foreign governments, as well as to maintain cooperation from foreign governments on a broad range of law enforcement and other issues.” She said that the Obama administration would continue to press Congress to pass the Consular Notification Compliance Act to implement the ICJ’s ruling.

There have been five executions in the USA this year, and 1,364 since judicial killing resumed there in 1977. Texas accounts for 509 of these executions. Amnesty International opposes the death penalty in all cases

No further action is requested from the UA network. Many thanks to all who sent appeals.

This is the first update of UA 338/13. Further information: www.amnesty.org/en/library/en/info/AMR51/085/2013/en

Name: Edgar Arias Tamayo

Gender m/f: m

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