

**REQUEST FOR THE INDICATION OF
PROVISIONAL MEASURES OF PROTECTION
SUBMITTED BY THE GOVERNMENT OF
THE FEDERAL REPUBLIC OF GERMANY**

1. I have the honour to refer to the Application submitted to the Court this day instituting proceedings in the name of the Federal Republic of Germany against the United States of America and to submit in accordance with Article 41 of the Statute of the Court and Articles 73 , 74 and 75 of the Rules of the Court, an urgent request that the Court indicate provisional measures to preserve the rights of the Federal Republic of Germany.

2.The Court has jurisdiction pursuant to Article I of the Optional Protocol concerning the Compulsory settlement of Disputes to the Vienna Convention on Consular Relations.

3. The facts underlying this request are set forth in the Application.

In 1982, the authorities of the State of Arizona detained two German nationals Karl and Walter LaGrand. These German nationals were tried and sentenced to death without being advised of their rights to consular assistance, as guaranteed to them by Article 36, subparagraph I (b), of the Vienna Convention on Consular Relations (the "Vienna Convention"). It was only in 1992, when all legal avenues at the State level had been exhausted, that the German consular officers were made aware, not by the authorities of the State of Arizona, but by the detainees themselves, of the case in question.

It had been the contention of the authorities of the State of Arizona that they had been unaware of the German nationality of the detainees. However, at the hearing of the Mercy Committee on 23 February 1999, State Attorney Peasley revealed that the authorities of the State of Arizona had indeed been aware all along, since 1982, that Karl and Walter LaGrand had been German nationals.

4. Germany was unable to protect its interests as provided for in Articles 5 and 36 of the Vienna Convention. Similarly, it was unable to protect its detained national's interests as provided for in those Articles.

5. Karl LaGrand was executed on 24 February 1999 in spite of all appeals for clemency and numerous diplomatic interventions at the highest level by the German Government.

The date of execution of Walter LaGrand, in the State of Arizona, has been set for 3 March 1999. This urgent request for provisional measures is made in the case of Walter LaGrand.

6. The importance and sanctity of an individual human life are well established in international law. As recognized by Article 6 of the International Covenant on Civil and Political Rights, every human being has the inherent right to life and this right shall be protected by law.

7. Under the grave and exceptional circumstances of this case, and given the paramount interest of Germany in the life and liberty of its nationals, provisional measures are urgently needed to protect the life of Germany's national Walter LaGrand and the ability of this Court to order the relief to which Germany is entitled in the case of Walter LaGrand, namely restoration of the status quo ante. Without the provisional measures requested, the United States will execute Walter LaGrand - as it did execute his brother Karl - before this Court can consider the merits of Germany's claims, and Germany will be forever deprived of the opportunity to have the status quo ante restored in the event of a judgment in its favour.

8. On behalf of the Government of the Federal Republic of Germany, I therefore respectfully request that, pending final judgment in this case, the Court indicate that:

The United States should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of that Order.

9. In view of the extreme gravity and immediacy of the threat that authorities in the United States will execute a German citizen in violation of obligations the United States owes to Germany, Germany respectfully asks the Court to treat this request as a matter of the greatest urgency.

10. The Government of the Federal Republic of Germany has authorized the undersigned as well as Mr. Gerhard Westdickenberg, Legal Adviser at the Federal Foreign Office, to appear before the Court in any proceedings or hearings relating to this request that the Court may convene in accordance with the Rules of the Court.

The Hague, 2 March 1999

(E. von Puttkamer)

Ambassador of the Federal Republic of Germany

to the Kingdom of the Netherlands