



INTERNATIONAL COURT OF JUSTICE

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Press Release

Unofficial

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Avena and Other Mexican Nationals
(Mexico v. United States of America)

Conclusion of the public hearings

Court ready to begin its deliberation

THE HAGUE, 23 December 2003. The public hearings in the case concerning Avena and Other Mexican Nationals (Mexico v. United States of America), which opened on 15 December 2003, were concluded on Friday 19 December 2003. The Court will now start its deliberation.

At the hearings, the delegation of Mexico was led by H.E. Mr. Juan Manuel Gómez-Robledo and H.E. Mr. Santiago Oñate, as Agents; the delegation of the United States of America was led by Mr. William H. Taft IV, as Agent.

The Court's Judgment, which is binding and without appeal, will be delivered at a public sitting, the date of which will be announced in due course.

Final submissions of the Parties

At the conclusion of the oral proceedings the Parties presented the following final submissions to the Court.

For Mexico:

“The Government of Mexico respectfully requests the Court to adjudge and declare:

- (1) That the United States of America, in arresting, detaining, trying, convicting, and sentencing the 52 Mexican nationals on death row described in Mexico's Memorial, violated its international legal obligations to Mexico, in its own right and in the exercise of its right to diplomatic protection of its nationals, by failing to inform, without delay, the 52 Mexican nationals after their arrest of their right to consular notification and access under Article 36 (1) (b) of the Vienna Convention on Consular Relations, and by depriving Mexico of its right to provide consular protection and the 52 nationals' rights to receive such protection as Mexico would provide under Article 36 (1) (a) and (c) of the Convention;
- (2) That the obligation in Article 36 (1) of the Vienna Convention requires notification of consular rights and a reasonable opportunity for consular access before the

competent authorities of the receiving State take any action potentially detrimental to the foreign national's rights;

- (3) That the United States of America violated its obligations under Article 36 (2) of the Vienna Convention by failing to provide meaningful and effective review and reconsideration of convictions and sentences impaired by a violation of Article 36 (1); by substituting for such review and reconsideration clemency proceedings; and by applying the "procedural default" doctrine and other municipal law doctrines that fail to attach legal significance to an Article 36 (1) violation on its own terms;
- (4) That pursuant to the injuries suffered by Mexico in its own right and in the exercise of diplomatic protection of its nationals, Mexico is entitled to full reparation for those injuries in the form of restitutio in integrum;
- (5) That this restitution consists of the obligation to restore the status quo ante by annulling or otherwise depriving of full force or effect the convictions and sentences of all 52 Mexican nationals;
- (6) That this restitution also includes the obligation to take all measures necessary to ensure that a prior violation of Article 36 shall not affect the subsequent proceedings;
- (7) That to the extent that any of the 52 convictions or sentences are not annulled, the United States shall provide, by means of its own choosing, meaningful and effective review and reconsideration of the convictions and sentences of the 52 nationals, and that this obligation cannot be satisfied by means of clemency proceedings or if any municipal law rule or doctrine inconsistent with paragraph (3) above is applied; and
- (8) That the United States of America shall cease its violations of Article 36 of the Vienna Convention with regard to Mexico and its 52 nationals and shall provide appropriate guarantees and assurances that it shall take measures sufficient to achieve increased compliance with Article 36 (1) and to ensure compliance with Article 36 (2)."

For the United States of America :

"On the basis of the facts and arguments made by the United States in its Counter-Memorial and in these proceedings, the Government of the United States of America requests that the Court, taking into account that the United States has conformed its conduct to this Court's Judgment in LaGrand, not only with respect to German nationals but, consistent with the declaration of the President of the Court in that case, to all detained foreign nationals, adjudge and declare that the claims of the United Mexican States are dismissed."

NOTE FOR THE PRESS

The full transcripts of the hearings of 15 to 19 December 2003 can be found on the Court's website (www.icj-cij.org) under "Docket". Click on the hyperlink bearing the name of the case.

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