



# euinsight

## The European Union: Leading the Fight Against Capital Punishment

The European Union considers the death penalty to be cruel and inhumane punishment that violates basic human rights. Capital punishment debases the society that imposes it, and history counsels great caution in granting governments power over life and death. The EU opposes the death penalty in all cases, without exception.

Abolition of capital punishment is a requirement for membership in the EU. Under the EU Charter on Fundamental Rights, no individual may be removed, expelled or extradited to a country where there is a serious risk of being subjected to the death penalty.

### Capital Punishment: Ineffective Deterrent, Impractical, Discriminatory

Extensive research over many years has shown that the death penalty is not a deterrent. It is equally clear that society can be protected from violent criminals by other means. In Europe and a number of American states, a life sentence without parole effectively separates the most serious capital offenders from the general populace.

There are serious practical problems for any country implementing the death penalty. Because no system of justice is immune to error, cases where individuals have been wrongly convicted of serious crimes emerge regularly, even in the most highly-regarded judicial systems. In its finality, however, capital punishment allows no room for error.

It is impossible to administer the ultimate sanction fairly and uniformly. For example, the U.S.-based Death Penalty Information Center points out that in America, the overwhelming majority of reviews conducted in states

with capital punishment have found a pattern of discrimination in the application of the death penalty, depending on the race of the victim, the perpetrator, or both factors together.

The high cost of capital punishment is another serious factor. In the U.S., numerous studies have shown that trying a capital case and carrying out a resulting death sentence are much more expensive than a non-death penalty process. Trials are longer, more lawyers are required, and the appeals process is lengthy and likely to result in another trial. A Columbia University Law School study found that 68 percent of death penalty sentences or convictions are overturned on appeal, which often leads to a subsequent life sentence.

### Abolition: Global Progress

After considerable progress in recent years, 130 countries are today fully abolitionist either in law or practice. In 2007, Rwanda abolished the death penalty for all crimes, while Kyrgyzstan outlawed executions for “ordinary” crimes (i.e., non-military law and absent exceptional circumstances) and Albania extended its death penalty ban to include all crimes.

Unfortunately, 67 nations around the world still retain the death penalty and, according to Amnesty International, at least 1,591 people were executed in 2006. (Some estimates run much higher, but there is a lack of reliable information, especially from China.) Twenty-five countries put individuals to death last year, but over 90 percent of capital sentences worldwide were carried out in six nations: China, Iran, Pakistan, Iraq, Sudan, and the U.S., where there were 53 executions in 12 states.

### EU Leadership

The European Union works closely with civil society groups and non-governmental organizations, and in international fora, supporting the movement to abolish capital punishment.

In 2006, the EU presented a Statement on the Death Penalty at the United Nations, signed by 85 countries, calling on governments to introduce a global moratorium on the death penalty as a first step towards abolition. In 2007, the EU will introduce a moratorium resolution for a full debate and vote in the UN General Assembly.

The European Union also expresses its views bilaterally to countries retaining capital punishment through both general representations, particularly where a country’s use of the death penalty is likely to be ended or reintroduced, and individual representations where the EU is made aware of individual death penalty sentences that violate “minimum standards” as set out at the United Nations (*inter alia*, that capital punishment cannot be imposed on those under 18 at the time of a crime, pregnant women, or the mentally disabled).

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*“The continued existence and application of the death penalty in many parts of the world remains a serious concern for us. Its abolition is a top human rights priority in our relations with non-EU countries and in international forums, like the United Nations.”*

Benita Ferrero-Waldner  
EU Commissioner for External Relations

# The EU, the United States, and Capital Punishment

The European Union recognizes that the death penalty in the United States has been developed within the democratic process and is reserved for the most violent offenders, and that its application is subject to judicial oversight. Decisions on the death penalty, as on other difficult social issues, are appropriately made by the American people through their representatives in government.

## Support for the Anti-Death Penalty Movement in the U.S.

Consistent with a global stance in seeking a moratorium on the death penalty, the EU supports the many Americans working toward that goal in their own country. A vigorous debate has been underway for many years regarding capital punishment in the United States, with signs of progress for those opposing the death penalty.

Twelve states have already abolished the death penalty within their borders and none of those 12 have recorded a subsequent increase in the homicide rate. Questioning the deterrent value of capital punishment, Governor Martin O'Malley

has called for a moratorium on the death penalty in Maryland. In 2006, New Jersey passed the first legislatively-imposed moratorium, and other states are likely to follow suit.

## American Bar Association Project

The American Bar Association (ABA), while neutral on the death penalty, has since 1997 called for a moratorium on capital punishment, declaring (in words that echo the famous dissent of U.S. Supreme Court Justice Harry Blackmun) that "administration of the death penalty, far from being consistent, is instead a haphazard maze of unfair practices with no internal consistency."

Since 2003, the EU has funded ABA efforts to assess the application of the death penalty in individual states. Resulting research has highlighted significant failings, such as: states placing excessive caseloads on defense counsels in death penalty cases; not ensuring adequate access to expert testimony for defendants; lacking proper review of proportionality in death sentences; lack of transparency in the clemency process; and alarming geographical, racial, and socio-economic disparities in the application of capital punishment.

## Appealing to the U.S. Government & Courts

The EU communicates its views directly to American political leaders at the state and federal level and, when appropriate, petitions the judicial system.

In recent years, the EU Presidency has

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*“From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored... to develop...rules that would lend more than the mere appearance of fairness to the death penalty endeavor.... Rather than continue to coddle the court’s delusion that the desired level of fairness has been achieved...I feel obligated simply to concede that the death penalty experiment has failed.... The path the court has chosen lessens us all.”*

Justice Harry A. Blackmun  
Dissenting in *Callins v. Collins*, 1994

made representations to U.S. state governors and agencies when scheduled executions appear to violate certain international norms to be met in cases of capital punishment (e.g., executing a mentally retarded individual) and when states are on the verge of ending a moratorium on capital punishment, and certain other instances.

The EU has also appealed directly to the U.S. Supreme Court, filing amicus briefs in cases including *Atkins v. Virginia* (banning the execution of the mentally disabled) and *Roper v. Simmons* (holding that the execution of juvenile offenders is “cruel and unusual punishment”), and was pleased that EU arguments were taken into account in each decision.



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## EIDHR: The EU Supporting Human Rights Around the Globe

Through the European Initiative for Democracy and Human Rights (EIDHR), the EU provides around €130 million annually to NGOs and international organizations to promote human rights and democracy around the world. EIDHR focuses on issues such as international justice, the rights of indigenous peoples, the fight against torture, and the campaign against the death penalty in projects based on the understanding that change on such important and emotional issues can only come from within a country itself.

The EU has funded over 30 death penalty initiatives around the world since 1994, committing €15 million to raise awareness in death penalty countries through public education and outreach, carry out studies on how countries' death penalty systems comply with minimum standards, support efforts to secure access for death-row inmates to appropriate legal support, and train lawyers.

For more information: [www.eurunion.org/euinsight](http://www.eurunion.org/euinsight)