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**ASIL PRESIDENTS URGE CONGRESSIONAL ACTION  
IN WAKE OF SUPREME COURT *MEDELLIN* CASE**

WASHINGTON, DC – The American Society of International Law’s (ASIL) current and past presidents, writing in their personal capacities, sent letters yesterday to the US Congress urging action to “ensure that the United States lives up to its binding international legal obligations under the Vienna Convention on Consular Affairs and the United Nations Charter.” The letters were prompted by the US Supreme Court’s decision earlier this year in the *Medellin v. Texas* case involving Mexican nationals on death row who did not receive access to their consular officials as required by the Vienna Convention, to which the US is a party. The first of these Mexican nationals is scheduled to be executed on August 5.

"Congressional action to ensure compliance with our undisputed international obligations is critically important," said Freshfields law firm partner and ASIL President **Lucy Reed**. "At stake are important protections of Americans abroad as well as our reputation as a country that lives up to its international agreements and expects others to do the same."

As background, the International Court of Justice (ICJ) held in 2004 that the

United States must provide “review and reconsideration” of the cases in question, in order to weigh the impact of the Vienna Convention violation. The Bush administration attempted to comply by directing state courts to undertake the review and reconsideration, but the Texas courts objected to the executive order. In the *Medellin* decision, the Supreme Court agreed with the Bush administration that the ICJ judgment is binding on the United States, but the Supreme Court concluded that barring independent action by the states holding the defendants, compliance could be achieved only through congressional action. In light of the imminent August 5 execution, the government of Mexico has this summer taken the case to the ICJ once again. In a new decision handed down Tuesday, the ICJ held that the US should take “all measures necessary” to ensure that the Mexican nationals are not executed prior to a final ICJ decision interpreting its original judgment or the mandated “review and reconsideration” by US courts.

Current ASIL President Lucy Reed along with all living past presidents of the Society (**José Alvarez, Charles N. Brower, James H. Carter, Thomas Franck, Louis Henkin, Arthur W. Rovine, Anne-Marie Slaughter, Peter D. Trooboff, and Edith Brown Weiss**) signed the letters. One letter was sent to the Senate Majority and Minority Leaders and Chairs and Ranking Members of the Senate Foreign Relations and Judiciary Committees. An identical letter was sent to the House Speaker and Minority Leader along with the Committee Chairs and Ranking Members of the House Foreign Affairs and Judiciary Committees.

In their letters the ASIL presidents emphasize that “the United States is poised irreparably to violate the Vienna Convention and a judgment of the ICJ” and that doing so “would set a dangerous precedent, undermining the reciprocal Vienna Convention

rights that American citizens are entitled to enjoy while traveling, living, or working abroad.”

Additionally, the letters caution that by executing the Mexican nationals without first giving their cases the review and reconsideration called for by the ICJ, the US would damage its reputation “as a nation that respects its international legal obligations and holds others to the same high standard.” “Our ability to conclude agreements binding on other countries,” the letters go on to say, “facilitates nearly every aspect of our international relations, including critically important issues relating to cooperation in counter-terrorism efforts, trade, nuclear non-proliferation, environmental protection, and international investment.”

A copy of the letters can be seen at [www.asil.org/presidentsltr](http://www.asil.org/presidentsltr).

It is uncertain whether Congress will act and, if so, how quickly. On Monday, July 14, House Foreign Affairs Committee Chairman Howard Berman introduced legislation that would provide the legal basis for US compliance with the ICJ judgment. The “Avena Case Implementation Act of 2008” (H.R. 6481) would “create a civil action to provide judicial remedies to carry out certain treaty obligations of the United States under the Vienna Convention on Consular Relations and the Optional Protocol to the Vienna Convention on Consular Relations.”

To learn more about the international law related to the *Medellin* and *Avena* cases, see a collection of ASIL resources at [www.asil.org/medellin-avena](http://www.asil.org/medellin-avena).

For further details or to speak with an ASIL member expert, contact Sheila Ward, ASIL Director of Communications and Member Relations, at [sward@asil.org](mailto:sward@asil.org) or 1-202-939-6018.

ASIL is a nonprofit, nonpartisan, educational membership organization. It was founded in 1906, chartered by the U.S. Congress in 1950, and has held Category II Consultative Status to the Economic and Social Council of the United Nations since 1993. ASIL's mission is to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice. The Society's 4,000 members (from nearly 100 countries) comprise attorneys, academics, corporate counsel, judges, representatives of governments and nongovernmental organizations, international civil servants, students, and others interested in international law. For more information, visit [www.asil.org](http://www.asil.org).

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