

May 17, 2013

The Honorable John F. Kerry  
U.S. Secretary of State  
c/o Office of the Legal Adviser  
U.S. Department of State 2201 C Street NW Washington, D.C. 20520

Re: Presidential visit to Berlin, June 18 & 19, 2013  
German citizen Jens Soering  
Incarcerated at Buckingham Correctional Center  
Dillwyn, Virginia

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Dear Secretary Kerry:

I represent Jens Soering who is a German citizen serving a lengthy sentence in a Virginia prison for the double murder of his then-girlfriend's parents. In 2010, the Honorable Timothy Kaine, then-Governor of Virginia, after six months of study, negotiations and deliberations, agreed to Mr. Soering's transfer to his native country and to be incarcerated there under terms worked out between Germany, its high court, Virginia and the United States; this was accomplished by use of the Convention on the Transfer of Sentenced Persons ("Treaty"), 18 U.S.C. §§4100-4115, of which the United States is a signatory. Gov. Kaine's consent was transmitted to Attorney General Eric Holder. Within a day of his swearing in, Gov. Kaine's successor withdrew the consent without any thought given to the goals of the Treaty or consideration of the German government; the transfer never occurred. A lawsuit was brought by Mr. Soering and a Virginia trial court ruled that the withdrawal of consent by a succeeding governor was lawful. Mr. Soering has been incarcerated for 27 years.

The German citizens and members of the German government have sent more than a thousand letters to the White House and the State Department asking that Mr. Soering be repatriated to Germany to serve his sentence there. The many requests ask for nothing more than what an American prisoner serving time in Germany might expect in order to be repatriated.

When Gov. Kaine submitted his letter of consent to Attorney General Holder on January 12, 2010, he officially bound the Commonwealth in its agreement with the German government and the German court; there was nothing more to do except allow Attorney General Holder to complete the arrangements for the transfer. Although a Virginia trial court ruled that the succeeding governor could withdraw consent, the Supreme Court of Virginia refused to hear the

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appeal; this is not an acquiescence by the Supreme Court of the ruling since the appeal was by certiorari.

Attorney General Holder decided not to interfere with the successive governor's decision as a political courtesy, because nothing in the Convention on the Transfer of Sentenced Persons, which binds all of the United States, recognizes revocation of a valid consent of a state sovereignty.

The Treaty may still be honored with action by your administration. The transfer can still occur because the Treaty is binding on the states and the Attorney General may act in this country's best interest and in comity of the wishes of the Federal Republic of Germany. When you are with the President on his travel to Berlin in June of this year, I implore you to consult with German officials, confirm their strongly held desire to have one of their citizens repatriated and encourage the President to direct Attorney General Holder to accomplish the laudable goals of the Treaty.<sup>1</sup>

Sincerely yours,

Steven D. Rosenfield

cc: Consul General Knut Abraham,  
German Embassy, Washington, D.C.  
Dr. Christoph Heusgen,  
German National Security Advisor, Federal Chancellor's Office, Berlin  
Markus Loening,  
Human Rights Commissioner, Foreign Office, Berlin  
Sabine Leutheusser-Schnarrenberger,  
Minister of Justice, Berlin  
Christoph Straesser,  
Member of Parliament, SPD Spokesman for Human Rights, Federal Parliament, Berlin  
Katrin Goering-Eckardt,  
Member of Parliament, Green Party Chancellor Candidate, Federal Parliament, Berlin  
Jens Soering

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<sup>1</sup> The Treaty preamble states as its purposes: ". . . further developing international co-operation in the field of criminal law; Considering that such co-operation should further the ends of justice and the social rehabilitation of sentenced persons; Considering that these objectives require that foreigners who are deprived of their liberty as a result of their commission of a criminal offence should be given the opportunity to serve their sentences within their own society; and Considering that this aim can best be achieved by having them transferred to their own countries. . .