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*Jurisprudence of the
International Court of Justice:
Order Issued in the Case
concerning the Vienna
Convention on Consular
Relations (Paraguay v. United
States of America)*

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(Order of 9 April 1998, for the text see the ICJ web site: <<http://www.icj-cij.org>>)

On 9 April 1998, the ICJ unanimously issued an order requesting the United States to take 'all measures at its disposal' to prevent the execution of the Paraguayan national Angel Francisco Breard. Mr Breard had been convicted by a US court for murder and attempted rape and was sentenced to death; his execution was scheduled for 13 April 1998. During the trial, he had never been informed of his right to consular assistance under Article 36 subparagraph 1(b) of the Vienna Convention on Consular Relations. Paraguay claimed that this rendered the sentence void, and that they were entitled to *restitutio in integrum*, i.e. to a retrial of the accused in accordance with the Convention.

The ICJ held that *prima facie* it has jurisdiction to entertain the case under an Optional Protocol to the Convention. The actual controversy did not concern the Convention text itself, but the general law of state responsibility. However, according to the Court, it was sufficient at this stage that a dispute existed as to whether the relief sought by Paraguay was available under the Convention.

Citing the imminence of Mr Breard's execution, the ICJ accorded the provisional measures.

In response to the order, the US Department of State requested the Virginian governor to halt the execution. However, following the Supreme Court's rejection of Mr Breard's writ of *certiorari*, the execution took place as scheduled. Admittedly, the binding force of ICJ orders is highly controversial. Yet, even if the US action was not

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contrary to international law, and even if Paraguay's claim might turn out to be unsubstantiated, the impression remains that several US institutions show very little interest in the authority of the principal legal organ of the United Nations. The US behaviour has damaged the Court's and its own prestige throughout the world.

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