



Office of the Attorney General
Washington, D. C. 20530

July 6, 2010

The Honorable Robert F. McDonnell
Governor of the Commonwealth of Virginia
Patrick Henry Building
1111 East Broad Street
Richmond, Virginia 23219

Re: Prisoner Transfer Request of Jens Soering

Dear Governor McDonnell:

Thank you for your letter of May 17, 2010, in which you set out your objection to the prisoner transfer of Jens Soering to Germany. You should be assured that it is the position of the United States Department of Justice that Jens Soering will not be considered for transfer to Germany unless and until the Commonwealth of Virginia provides clear and unambiguous consent to such a transfer.

As you know, the United States Department of Justice administers our international prisoner transfer treaties, both for foreign nationals incarcerated in federal prisons and for those held in state prisons. When a state prisoner wishes to transfer, he must first obtain the consent of the responsible state authority before seeking the consent of the Department of Justice to the transfer request. Without a clear and unambiguous consent from the responsible state, the Department of Justice cannot consider the transfer request.

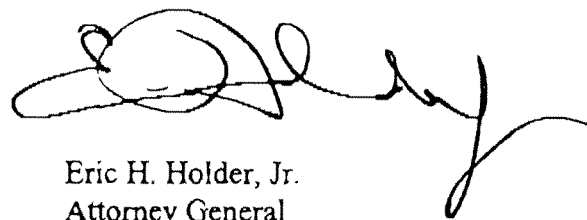
Here, of course, former Governor Kaine consented to the transfer of Jens Soering. You have withdrawn that consent. From a federal perspective, that withdrawal is controlling, since nothing in either the Council of Europe Transfer Convention or the federal legislation establishing the transfer program prevents a state from withdrawing its consent prior to the physical transfer of the prisoner. Thus, we cannot consider Jens Soering for transfer unless and until one of two events occurs: first, either you or a subsequent Governor decides to grant consent to transfer; or second, a judicial challenge is brought to your withdrawal of consent, and Virginia state courts determine that the consent of a Virginia Governor to transfer a prisoner cannot be revoked by a subsequent Governor under Virginia state law. In either case, this is a matter for the Commonwealth of Virginia to decide, not the United States Department of Justice.

The Honorable Robert F. McDonnell
Page 2

In sum, the United States Department of Justice will not proceed with consideration of the transfer of a state prisoner without the clear and unambiguous consent of the responsible state to such a transfer. Accordingly, unless and until such consent is provided by the Commonwealth of Virginia in the case of Jens Soering, we will not proceed with consideration of his application for transfer.

Please do not hesitate to contact me if you would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric H. Holder, Jr.", with a stylized flourish extending to the right.

Eric H. Holder, Jr.
Attorney General