

Union Calendar No. 384

103D CONGRESS
2D SESSION

H. R. 934

[Report No. 103-702]

A BILL

To amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture or extrajudicial killing occurring in that state.

AUGUST 16, 1994

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 1993

Mr. MAZZOLI introduced the following bill; which was referred to the Committee on the Judiciary

AUGUST 16, 1994

Additional sponsors: Mr. SCHUMER and Mr. PRICE of North Carolina

AUGUST 16, 1994

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[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 17, 1993]

A BILL

To amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture or extrajudicial killing occurring in that state.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXCEPTION TO FOREIGN SOVEREIGN IMMUN-**
4 **ITY FOR CERTAIN CASES INVOLVING TOR-**
5 **TURE, EXTRAJUDICIAL KILLING, OR GENO-**
6 **CIDE IN A FOREIGN STATE.**

7 *Section 1605(a) of title 28, United States Code, is*
8 *amended—*

9 *(1) by striking “or” at the end of paragraph (5);*

10 *(2) by striking the period at the end of para-*
11 *graph (6) and inserting in lieu thereof “; or”; and*

12 *(3) by adding at the end thereof the following:*

13 *“(7) not otherwise encompassed in paragraph*
14 *(2), in which money damages are sought against a*
15 *foreign state for the personal injury or death of a*
16 *United States citizen occurring in such foreign state*
17 *and caused by the torture or extrajudicial killing of*
18 *that citizen, or by an act of genocide committed*
19 *against that citizen, by such foreign state or by any*
20 *official or employee of such foreign state while acting*
21 *within the scope of his or her office or employment,*
22 *except that—*

23 *“(A) an action under this paragraph shall*
24 *not be maintained unless the individual whose*
25 *injury or death gave rise to the action was a*

1 *United States citizen at the time the conduct*
2 *causing such injury or death occurred;*

3 “(B) *the court shall decline to hear a claim*
4 *under this paragraph if the claimant has not ex-*
5 *hausted adequate and available remedies in the*
6 *place in which the conduct giving rise to the*
7 *claim occurred; and*

8 “(C) *an action under this paragraph shall*
9 *not be maintained unless—*

10 “(i) *the action is commenced within 10*
11 *years after the cause of action accrues; or*

12 “(ii) *the cause of action is based on an*
13 *act of genocide occurring more than 10*
14 *years before the date of the enactment of this*
15 *paragraph and the action is brought within*
16 *18 months after such date of enactment.*

17 *For purposes of paragraph (7), the terms ‘torture’ and*
18 *‘extrajudicial killing’ have the meanings given those terms*
19 *in section 3 of the Torture Victim Protection Act of 1991,*
20 *and the term ‘act of genocide’ means conduct that would*
21 *be a violation of section 1091 of title 18 if committed in*
22 *the United States.”.*

23 **SEC. 2. EXCEPTION TO IMMUNITY FROM ATTACHMENT.**

24 (a) *FOREIGN STATE.*—*Section 1610(a) of title 28,*
25 *United States Code, is amended—*

1 (1) by striking the period at the end of para-
2 graph (6) and inserting in lieu thereof “, or”; and

3 (2) by adding at the end thereof the following
4 new paragraph:

5 “(7) the judgment relates to a claim for which
6 the foreign state is not immune by virtue of section
7 1605(a)(7) of this chapter, regardless of whether the
8 property is or was involved in the act upon which the
9 claim is based.”.

10 (b) *AGENCY OR INSTRUMENTALITY*.—Section
11 1610(b)(2) of such title is amended—

12 (1) by striking “or (5)” and inserting in lieu
13 thereof “(5), or (7)”; and

14 (2) by striking “used for the activity” and in-
15 serting in lieu thereof “involved in the act”.

16 **SEC. 3. APPLICABILITY.**

17 *The amendments made by this Act shall apply to any*
18 *cause of action arising before, on, or after the date of the*
19 *enactment of this Act.*

Amend the title so as to read: “A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture, extrajudicial killing, or genocide occurring in that state.”.