

104TH CONGRESS
1ST SESSION

H. R. 1877

To amend title 28, United States Code, to allow suits against foreign states for damages caused by torture, extrajudicial killing, and other terrorist acts.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1995

Mr. FOX of Pennsylvania (for himself, Mr. CALVERT, Mr. BAKER of Louisiana, Mr. SCHUMER, Ms. MCKINNEY, and Mr. LATOURETTE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to allow suits against foreign states for damages caused by torture, extrajudicial killing, and other terrorist acts.

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. JURISDICTION FOR LAWSUITS AGAINST FOR-**
4 **EIGN STATES FOR ACTS OF TERRORISM.**

5 (a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY
6 FOR CERTAIN CASES.—Section 1605 of title 28, United
7 States Code, is amended—

8 (1) in subsection (a)—

1 (A) by striking “or” at the end of para-
2 graph (5);

3 (B) by striking the period at the end of
4 paragraph (6) and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(7) not otherwise covered by paragraph (2), in
7 which money damages are sought against a foreign
8 state for personal injury or death, or economic
9 harm, that was caused by an act of torture,
10 extrajudicial killing, aircraft sabotage, hostage tak-
11 ing, or the provision of material support or resources
12 (as defined in section 2339A of title 18) for a person
13 carrying out such an act, by a foreign state or by
14 any official, employee, or agent or such foreign state
15 while acting within the scope of his or her office,
16 employment, or agency, except that an action under
17 this paragraph shall not be maintained unless—

18 “(A) the claimant first affords the foreign
19 state a reasonable opportunity to arbitrate the
20 claim in accordance with accepted international
21 rules of arbitration; and

22 “(B) the act upon which the claim is
23 based—

24 “(i) occurred while the individual
25 bringing the claim was a national of the

1 United States (as that term is defined in
2 section 101(a)(22) of the Immigration and
3 Nationality Act); and

4 “(ii) occurred while a determination
5 was in effect under section 6(j) of the Ex-
6 port Administration Act of 1979 (50 App.
7 U.S.C. 2405(j)) or section 620A of the
8 Foreign Assistance Act of 1961 (22 U.S.C.
9 2371), that the government of that foreign
10 state repeatedly provided support for acts
11 of international terrorism.”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(e) For purposes of paragraph (7) of subsection
15 (a)—

16 “(1) the terms ‘torture’ and ‘extrajudicial kill-
17 ing’ have the meaning given those terms in section
18 3 of the Torture Victim Protection Act of 1991;

19 “(2) the term ‘hostage taking’ has the meaning
20 given such term in Article 1 of the International
21 Convention Against the Taking of Hostages; and

22 “(3) the term ‘aircraft sabotage’ has the mean-
23 ing given such term in Article 1 of the Convention
24 for the Suppression of Unlawful Acts Against the
25 Safety of Civil Aviation.”.

1 (b) EXCEPTION TO IMMUNITY FROM ATTACH-
2 MENT.—

3 (1) FOREIGN STATE.—Section 1610(a) of title
4 28, United States Code, is amended—

5 (A) by striking the period at the end of
6 paragraph (6) and inserting “, or”; and

7 (B) by adding at the end the following new
8 paragraph:

9 “(7) the judgment relates to a claim for which
10 the foreign state is not immune under section
11 1605(a)(7), regardless of whether the property is or
12 was involved with the act upon which the claim is
13 based.”.

14 (2) AGENCY OR INSTRUMENTALITY.—Section
15 1610(b)(2) of such title is amended—

16 (A) by striking “or (5)” and inserting
17 “(5), or (7)”; and

18 (B) by striking “used for the activity” and
19 inserting “involved in the act”.

20 (c) APPLICABILITY.—The amendments made by this
21 title shall apply to any cause of action arising before, on,
22 or after the date of the enactment of this Act.

○