

103D CONGRESS
1ST SESSION

H. R. 2363

To amend the Foreign Sovereign Immunities Act to provide for exceptions in cases of torture, extrajudicial killing, or war crimes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1993

Mr. SCHUMER (for himself and Mr. PALLONE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Foreign Sovereign Immunities Act to provide for exceptions in cases of torture, extrajudicial killing, or war crimes.

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 IMMU-**
4 **NITY FOR CERTAIN CASES INVOLVING TOR-**
5 **TURE OR EXTRAJUDICIAL KILLING IN A FOR-**
6 **EIGN STATE.**

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

9 (1) by striking “or” at the end of paragraph
10 (5);

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

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

5 “(7) not otherwise encompassed in paragraph
6 (2), in which money damages are sought against a
7 foreign state for personal injury or death of a Unit-
8 ed States citizen occurring in such foreign state and
9 caused by the torture or extrajudicial killing of that
10 citizen by such foreign state or by a war crime com-
11 mitted by the military of such foreign state or by
12 any official or employee of such foreign state while
13 acting within the scope of his or her office or em-
14 ployment, except that—

15 “(A) the court shall decline to hear a claim
16 under this paragraph if the claimant has not
17 exhausted adequate and available remedies in
18 the place in which the conduct giving rise to the
19 claim occurred; and

20 “(B) an action under this paragraph shall
21 not be maintained unless it is commenced with-
22 in 10 years after the cause of action accrues
23 unless the cause of action is based on war
24 crimes committed during World War II.

1 For purposes of paragraph (7), the terms ‘torture’ and
2 ‘extrajudicial killing’ have the meanings given those terms
3 in section 3 of the Torture Victim Protection Act of
4 1991.”.

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

6 (a) FOREIGN STATE.—Section 1610(a) of title 28,
7 United States Code, is amended—

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

10 (2) by adding at the end thereof the following
11 new paragraph:

12 “(7) the judgment relates to a claim for which
13 the foreign state is not immune by virtue of section
14 1605(a)(7) of this chapter, regardless of whether the
15 property is or was involved in the act upon which
16 the claim is based.”.

17 (b) AGENCY OR INSTRUMENTALITY.—Section
18 1610(b)(2) of such title is amended—

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

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

1 **SEC. 3. APPLICABILITY.**

2 The amendments made by this Act shall apply to any
3 cause of action arising before, on, or after the date of the
4 enactment of this Act.

○