

108TH CONGRESS
1ST SESSION

S. 710

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2003

Mr. LEAHY (for himself, Mr. HATCH, Mr. LIEBERMAN, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Anti-Atrocity Alien De-
3 portation Act of 2003”.

4 **SEC. 2. INADMISSIBILITY AND DEPORTABILITY OF ALIENS**
5 **WHO HAVE COMMITTED ACTS OF TORTURE**
6 **OR EXTRAJUDICIAL KILLINGS ABROAD.**

7 (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1182(a)(3)(E)) is amended—

10 (1) in clause (ii), by striking “has engaged in
11 conduct that is defined as genocide for purposes of
12 the International Convention on the Prevention and
13 Punishment of Genocide is inadmissible” and insert-
14 ing “ordered, incited, assisted, or otherwise partici-
15 pated in conduct outside the United States that
16 would, if committed in the United States or by a
17 United States national, be genocide, as defined in
18 section 1091(a) of title 18, United States Code, is
19 inadmissible”;

20 (2) by adding at the end the following:

21 “(iii) COMMISSION OF ACTS OF TOR-
22 TURE OR EXTRAJUDICIAL KILLINGS.—Any
23 alien who, outside the United States, has
24 committed, ordered, incited, assisted, or
25 otherwise participated in the commission
26 of—

1 “(I) any act of torture, as de-
2 fined in section 2340 of title 18,
3 United States Code; or

4 “(II) under color of law of any
5 foreign nation, any extrajudicial kill-
6 ing, as defined in section 3(a) of the
7 Torture Victim Protection Act of
8 1991 (28 U.S.C. 1350 note);

9 is inadmissible.”; and

10 (3) in the subparagraph heading, by striking
11 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-
12 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-
13 CUTION, GENOCIDE, OR THE COMMISSION OF ANY
14 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

15 (b) DEPORTABILITY.—Section 237(a)(4)(D) of such
16 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

17 (1) by striking “clause (i) or (ii)” and inserting
18 “clause (i), (ii), or (iii)”; and

19 (2) in the subparagraph heading, by striking
20 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
21 GENOCIDE” and inserting “PARTICIPATED IN NAZI
22 PERSECUTION, GENOCIDE, OR THE COMMISSION OF
23 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to offenses committed before, on,
3 or after the date of the enactment of this Act.

4 **SEC. 3. INADMISSIBILITY AND DEPORTABILITY OF FOR-**
5 **IGN GOVERNMENT OFFICIALS WHO HAVE**
6 **COMMITTED PARTICULARLY SEVERE VIOLA-**
7 **TIONS OF RELIGIOUS FREEDOM.**

8 (a) GROUND OF INADMISSIBILITY.—Section
9 212(a)(2)(G) of the Immigration and Nationality Act (8
10 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

11 “(G) FOREIGN GOVERNMENT OFFICIALS
12 WHO HAVE COMMITTED PARTICULARLY SEVERE
13 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
14 alien who, while serving as a foreign govern-
15 ment official, was responsible for or directly
16 carried out, at any time, particularly severe vio-
17 lations of religious freedom, as defined in sec-
18 tion 3 of the International Religious Freedom
19 Act of 1998 (22 U.S.C. 6402), is inadmis-
20 sible.”.

21 (b) GROUND OF DEPORTABILITY.—Section 237(a)(4)
22 of the Immigration and Nationality Act (8 U.S.C.
23 1227(a)(4)) is amended by adding at the end the fol-
24 lowing:

1 “(E) PARTICIPATED IN THE COMMISSION
2 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-
3 DOM.—Any alien described in section
4 212(a)(2)(G) is deportable.”.

5 **SEC. 4. WAIVER OF INADMISSIBILITY.**

6 Section 212(d)(3) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(d)(3)) is amended—

8 (1) in subparagraph (A), by striking “and
9 3(E)” and inserting “and clauses (i) and (ii) of
10 paragraph (3)(E)”; and

11 (2) in subparagraph (B), by striking “and
12 3(E)” and inserting “and clauses (i) and (ii) of
13 paragraph (3)(E)”.

14 **SEC. 5. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
15 **WHO HAVE COMMITTED ACTS OF TORTURE,**
16 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
17 **LATIONS OF RELIGIOUS FREEDOM.**

18 Section 101(f) of the Immigration and Nationality
19 Act (8 U.S.C. 1101(f)) is amended—

20 (1) by striking the period at the end of para-
21 graph (8) and inserting “; and”; and

22 (2) by adding at the end the following:

23 “(9) one who at any time has engaged in con-
24 duct described in section 212(a)(3)(E) (relating to
25 assistance in Nazi persecution, participation in geno-

1 that may form the basis for removal and
2 denaturalization; or

3 “(B) the availability of extradition of the alien
4 to a foreign jurisdiction that is prepared to under-
5 take a prosecution for such conduct.”.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There are authorized to be
8 appropriated to the Department of Justice such
9 sums as may be necessary to carry out the addi-
10 tional duties established under section 103(h) of the
11 Immigration and Nationality Act (as added by this
12 Act) in order to ensure that the Office of Special In-
13 vestigations fulfills its continuing obligations regard-
14 ing Nazi war criminals.

15 (2) AVAILABILITY OF FUNDS.—Amounts appro-
16 priated pursuant to paragraph (1) are authorized to
17 remain available until expended.

18 **SEC. 7. REPORT ON IMPLEMENTATION OF THE ACT.**

19 Not later than 180 days after the date of enactment
20 of this Act, the Attorney General, in consultation with the
21 Secretary of Homeland Security, shall submit to the Com-
22 mittees on the Judiciary of the Senate and the House of
23 Representatives a report on implementation of this Act
24 that includes a description of—

1 (1) the procedures used to refer matters to the
2 Office of Special Investigations and other compo-
3 nents within the Department of Justice and the De-
4 partment of Homeland Security in a manner con-
5 sistent with the amendments made by this Act;

6 (2) the revisions, if any, made to immigration
7 forms to reflect changes in the Immigration and Na-
8 tionality Act made by the amendments contained in
9 this Act; and

10 (3) the procedures developed, with adequate due
11 process protection, to obtain sufficient evidence to
12 determine whether an alien may be inadmissible
13 under the terms of the amendments made by this
14 Act.

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