

114TH CONGRESS
2D SESSION

S. CON. RES. 48

Expressing the sense of Congress that the Italian Supreme Court of Cassation should domesticate and recognize judgments issued by United States courts on behalf of United States victims of terrorism, and that the Italian Ministry of Foreign Affairs should cease its political interference with Italy's independent judiciary, which it carries out in the interests of state sponsors of terrorism such as the Islamic Republic of Iran.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2016

Mr. BLUMENTHAL (for himself, Mr. KIRK, and Mr. MURPHY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations

CONCURRENT RESOLUTION

Expressing the sense of Congress that the Italian Supreme Court of Cassation should domesticate and recognize judgments issued by United States courts on behalf of United States victims of terrorism, and that the Italian Ministry of Foreign Affairs should cease its political interference with Italy's independent judiciary, which it carries out in the interests of state sponsors of terrorism such as the Islamic Republic of Iran.

Whereas, in 1996, Congress passed the Terrorism Exception to the Foreign Sovereign Immunities Act to give United States citizens a private means of redress for injuries and deaths caused by state-sponsored acts of terrorism (origi-

nally codified at section 1605(a)(7) of title 28, United States Code and subsequently amended and recodified at section 1605A of title 28, United States Code) (in this resolution referred to as the “Terrorism Exception”);

Whereas the Terrorism Exception continues to be an important tool for the United States Government to protect the interests of its nationals, and to deter global terrorism;

Whereas the families of Alisa Flatow, Sarah Duker, and Matthew Eisenfeld, United States students killed in Iran-sponsored bombings, secured judgments against the Islamic Republic of Iran in United States Federal court for its role in those murders;

Whereas the families of Alisa Flatow, Sarah Duker, and Matthew Eisenfeld attempted to enforce those United States judgments against Iranian assets held in Italy;

Whereas the families of Alisa Flatow, Sarah Duker, and Matthew Eisenfeld initially domesticated their judgments in Italian court;

Whereas the Italian Ministry of Foreign Affairs entered appearances in subsequent proceedings on behalf of the Islamic Republic of Iran, interfering with the domestication and successfully causing the Italian Supreme Court of Cassation (Italy’s highest court of appeal) to overturn the Court of Appeals of Rome’s judgment in favor of these United States terrorism victims (*Islamic Republic of Iran v. Flatow*, Cass., sez. un., 22 giugno 2007, n. 14570 (It.)); *Islamic Republic of Iran v. Eisenfeld*, Cass., sez. un., 22 giugno 2007, n. 14571 (It.));

Whereas the Italian Supreme Court of Cassation condemned the Terrorism Exception—a crucial United States antiterrorism statute—as a violation of international law

on the grounds that it gives United States citizens a remedy for acts of terrorism committed outside of the United States (*Flatow v. Islamic Republic of Iran*, Cass., sez. un., 28 ottobre 2015, n. 21946 (It.); *Eisenfeld v. Islamic Republic of Iran*, Cass., sez. un., 28 ottobre 2015, n. 21947 (It.));

Whereas the Italian Supreme Court of Cassation therefore refuses to recognize any judgments issued by United States courts under the Terrorism Exception (*id.*);

Whereas Congress will use every tool at its disposal to seek justice for United States citizens who are murdered in acts of terrorism, including attacks committed outside the United States; and

Whereas United States courts have applied the Terrorism Exception to bring justice to European Union victims of state-sponsored terrorism directed against United States nationals (see, e.g., *Hurst v. Socialist People's Libyan Arab Jamahiriya*, 474 F. Supp. 2d 19 (D.D.C. 2007); *Rein v. Socialist People's Libyan Arab Jamahiriya*, 995 F. Supp. 325 (E.D.N.Y. 1998)): Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring)*, That it is the sense of Congress that—

3 (1) Italy has violated the principle of reciprocity
4 governing the mutual recognition of domestic court
5 awards between our two nations;

6 (2) the intervention by the Italian Ministry of
7 Foreign Affairs on behalf of Iran against victims of
8 Iranian terrorism was initiated to the detriment of

1 both United States and European Union terrorism
2 victims; and

3 (3) the European Court of Human Rights
4 should—

5 (A) overturn the Italian Supreme Court of
6 Cassation's erroneous rulings in *Flatow v. Is-*
7 *lamic Republic of Iran* (Cass., sez. un., 28
8 ottobre 2015, n. 21946 (It.)) and *Eisenfeld v.*
9 *Islamic Republic of Iran* (Cass., sez. un., 28
10 ottobre 2015, n. 21947 (It.)); and

11 (B) order the Italian Supreme Court of
12 Cassation to recognize the United States judg-
13 ments held by the Flatow, Duker, and Eisenfeld
14 families against Iran.

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