

Insurers Entitled To Judgment On Default Against Syria for International Act of Terrorism Under New U.S. Statute

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[Certain Underwriters at Lloyd's, London, et al. v. Great Socialist People's Libyan Arab Jamahiriya, et al.](#), Civil Action No. 06-cv-731 (JMF) (D.D.C. 2011), are two actions. The primary remaining defendants include Syria and seek damages for acts of state-sponsored terrorism that resulted in the hijacking of EgyptAir Flight 648 on Nov. 23, 1985. The aircraft was destroyed, and the plaintiffs here, Lloyd's syndicates, seek the value of the insurance claims paid (75.5% of the original insurance policy based on a total recoverable loss of \$11,043,660.83).

The decision shows the operation of the new statute, 28 U.S.C. sec. 1605A, which replaced old Section 1605(a)(7) (see our prior discussions, e.g., [here](#)). The key aspect of this decision for international practice purposes includes the creation of a federal cause of action for state-sponsored terrorism, rather than the prior law, which provided only a federal forum for state law claims. The Court permitted a retroactive application of the new statute under the "belts-and-suspenders" approach endorsed by Chief Judge Lamberth in *In re: Islamic Republic of Iran Terrorism Litigation*, 659 F.Supp. 2d 31 (D.D.C. 2009) (discussed [here](#)). The Court also applied the law on what evidence must be shown to secure a judgment in the face of the defendants' default (discussed [here](#)).

In this case the Magistrate Judge made the following findings necessary for application of the new statute:

(i) that the hijacking . . . was an act of international terrorism; (ii) that the terrorist shootings of the American victims . . . were acts of international terrorism that occurred during and as a result of the November 23, 1985 terrorist hijacking; (iii) the hijacking resulted in the reasonably foreseeable complete destruction of the aircraft owned by EgyptAir and insured by plaintiffs; (iv) that said hijacking was committed by terrorist operatives of the Abu Nidal Organization ("ANO"), which has been designated by the U.S. Department of State as a Foreign Terrorist Organization; (v) that the ANO, at the time of and prior to the EgyptAir hijacking, was sponsored and supported by Syria, which has been designated by the U.S. Department of State as a State Sponsor of Terrorism; and (vi) that the Syrian Arab Republic, the Syrian Air Force Intelligence Agency, Idarat al-Mukhabarat al-Jawiyya, and Syria's Director of Military Intelligence, General Muhammad al-Khuli, conspired with and provided substantial and material support to the ANO terrorist organization, and that the Syrian defendants caused and are liable for the acts of international terrorism against the plaintiffs and the resultant damages.