



Protecting Consular Assistance: Congressional Action Needed to Ensure the Safety of Americans Abroad

WHY IS CONGRESSIONAL ACTION NEEDED?

The Vienna Convention on Consular Relations (VCCR), a treaty fully ratified by the United States and thus part of U.S. law, ensures the right of detained foreign nationals to have prompt access to consular assistance and permits consulates to assist their citizens abroad. The United States is currently in breach of its international treaty commitments by failing to provide access to potential judicial remedies for certain domestic violations of its VCCR obligations in serious cases. The International Court of Justice - which the United States designated as the court with jurisdiction to resolve international disputes regarding the Vienna Convention - determined in the *Avena* case that the United States can remedy these violations by granting judicial hearings to determine whether prejudice resulted from the failure to provide consular access. In 2008, the U.S. Supreme Court concluded in *Medellín v. Texas* that complying with the ICJ judgment is an international legal obligation of the United States, and that the reasons for doing so are "plainly compelling." The Court further determined that legislation enacted by Congress is necessary to implement this obligation. Three years later, despite support from the State Department and the Department of Justice, implementing legislation has not yet been enacted.

WHY IS THIS ISSUE IMPORTANT TO AMERICANS ABROAD?

The security of Americans abroad is clearly and directly at risk when the U.S. fails to abide by its international obligations under the VCCR and related consular treaties. Prompt and consistent compliance with consular notification and access provisions is critical to the safety of Americans who travel, live and work in other countries around the world. Whenever our fellow-citizens are arrested in a foreign country, U.S. consulates provide a list of attorneys and information on the host country's legal system, offer to contact family or friends, visit on a regular basis, protest mistreatment, monitor jail conditions, and keep the Department of State informed. The United States rightly insists that other countries grant Americans the right to prompt consular notification and access, as required under the VCCR. However, effective insistence on compliance abroad must first begin with remedial action at home.

WHAT SHOULD CONGRESS DO?

Congress must act without delay to fulfill the United States' consular treaty obligations and thus ensure the safety of Americans abroad. Prompt Congressional action will preserve the reputation of the United States as a reliable international partner that respects the rule of law.

AARO, ACA, FAWCO and MENA believe that Congress can fulfill our international obligations by promptly adopting legislation ensuring access to the required judicial review and reconsideration of VCCR violations in the most serious cases. Any burden on the federal courts would be minimal, and would be greatly outweighed by the benefits of protecting the reciprocal rights of American citizens abroad. Each day that Congress fails to act increases the risk that other nations will begin to shirk their own VCCR responsibilities, potentially endangering the safety and security of every American citizen who ventures beyond our nation's borders.



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