

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE No. 25-cv-23652-GAYLES/TORRES

JERREL KENEMORE, *et al.*,

Plaintiffs,

v.

NICOLÁS MADURO MOROS, *et al.*,

Defendants.

**SUGGESTION OF IMMUNITY
SUBMITTED BY THE UNITED STATES OF AMERICA**

Pursuant to 28 U.S.C. § 517,¹ the United States respectfully informs this Honorable Court of the interest of the United States in the pending lawsuit against President Delcy Rodríguez, the sitting head of state of the Bolivarian Republic of Venezuela, and hereby suggests to the Court the immunity of President Rodríguez from this suit.

1. The United States has an interest in this action because Defendant Delcy Rodríguez is the sitting head of a foreign state, Venezuela, who enjoys immunity from the Court's jurisdiction while in office. The Constitution assigns to the U.S. President the responsibility to represent the Nation in its foreign relations. *See, e.g., United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936) (referring to the President's

¹ 28 U.S.C. § 517 provides that "any officer of the Department of Justice[] may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States."

“exclusive power . . . as the sole organ of the federal government in the field of international relations”); U.S. Const. Art. II § 3 (assigning to the President the responsibility to “receive Ambassadors and other public Ministers”). As an element of that power, the Executive Branch has the sole authority to determine which individuals enjoy immunity from suit as sitting heads of state. The interest of the United States in this matter arises from a determination by the Executive Branch of the Government of the United States, in consideration of the relevant principles of customary international law and in the implementation of its foreign policy and in the conduct of its international relations, to recognize President Rodríguez’s immunity from this suit. As discussed below, this determination is controlling and is not subject to judicial review.

2. The U.S. Department of State has announced the recognition of President Delcy Rodríguez as the head of state of Venezuela, and has informed the Department of Justice that Venezuela has formally requested the Government of the United States to take the steps necessary to certify the immunity of President Rodríguez in this suit, in light of her current status as the head of state of Venezuela. The Department of State has further informed the Department of Justice that the “Department of State recognizes and allows the immunity of President Rodríguez as the sitting head of state of a foreign state from the jurisdiction of the United States District Court in this suit. Under common law principles of immunity articulated by the Executive Branch in the exercise of its Constitutional authority over foreign affairs and informed by customary international law, President Rodríguez, as the sitting head of state of a foreign state, is immune while in office from the jurisdiction of the United States District Court in this suit.” Letter from Reed D. Rubinstein to Brett Shumate, dated June 11, 2026 (copy attached as Exhibit A).

3. For many years, the immunity of both foreign states and foreign officials was determined exclusively by the Executive Branch, and courts deferred completely to the Executive's foreign sovereign immunity determinations. *See, e.g., Republic of Mexico v. Hoffmann*, 324 U.S. 30, 35 (1945) ("It is therefore not for the courts to deny an immunity which our government has seen fit to allow, or to allow an immunity on new grounds which the government has not seen fit to recognize."); *see also Habyarimana v. Kagame*, 696 F.3d 1029, 1032 (10th Cir. 2012). In 1976, Congress codified the standards governing suit against foreign states in the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1602 et seq., transferring to the courts the responsibility for determining whether a foreign state is subject to suit. § 1602.

4. As the Supreme Court has explained, however, Congress has not similarly codified standards governing the immunity of foreign officials from suit in our courts. *Samantar v. Yousuf*, 560 U.S. 305, 325 (2010) ("Although Congress clearly intended to supersede the common-law regime for claims against foreign states, we find nothing in the statute's origin or aims to indicate that Congress similarly wanted to codify the law of foreign official immunity."). Instead, when it codified the principles governing the immunity of foreign states, Congress left in place the practice of judicial deference to Executive Branch immunity determinations with respect to foreign officials. *See id.* at 323 ("We have been given no reason to believe that Congress saw as a problem, or wanted to eliminate, the State Department's role in determinations regarding individual official immunity."). Thus, the Executive Branch retains its historic authority to determine a foreign official's immunity from suit, including the immunity of foreign heads of state. *See id.* at 311–12 (noting Executive Branch's role in determining head of

state immunity); *see also Wei Ye v. Jiang Zemin*, 383 F.2d 620, 625 (7th Cir. 2004) (“Because the FSIA does not apply to heads of states, the decision concerning the immunity of foreign heads of state remains vested where it was prior to 1976—with the Executive Branch.”).

5. The doctrine of head of state immunity is well established in customary international law. *See Satow’s Guide to Diplomatic Practice* 207 (7th ed. 2017). Although the doctrine is referred to as “head of state immunity,” it applies to heads of government and foreign ministers as well. *See, e.g., The Schooner Exchange v. M’Faddon*, 11 U.S. (7 Cranch) 116, 138–39 (1812) (discussing immunity of foreign ministers in U.S. courts); *Arrest Warrant of 11 Apr. 2000* (Democratic Republic of Congo v. Belgium), 2002 I.C.J. 3, 20–21 (Feb. 14) (Merits) (heads of state, heads of government, and ministers of foreign affairs enjoy immunity from jurisdiction of foreign states).

6. In the United States, head of state immunity determinations are made by the Department of State on behalf of the Executive Branch, incident to the Executive Branch’s authority in the field of foreign affairs. The Supreme Court has held that the courts of the United States are bound by Suggestions of Immunity submitted by the Executive Branch. *See Hoffman*, 324 U.S. at 35–36; *Ex parte Peru*, 318 U.S. 578, 588–89 (1943); *see also Samantar*, 560 U.S. at 323 (“We have been given no reason to believe that Congress saw as a problem, or wanted to eliminate, the State Department’s role in determinations regarding individual official immunity.”). When considering foreign state immunity in *Ex parte Peru*, the Supreme Court, without further review of the Executive Branch’s immunity determination, declared that such a determination “must be accepted

by the courts as a conclusive determination by the political arm of the Government.” 318 U.S. at 589. After a Suggestion of Immunity is filed, it is “the court’s duty” to surrender jurisdiction. *Id.* at 588. The courts’ deference to Executive Branch determinations of foreign sovereign immunity is compelled by the separation of powers. *See, e.g., Habyarimana*, 696 F.3d at 1032.

7. For the same reason, courts have consistently deferred to the Executive Branch’s immunity determinations concerning sitting heads of state. *See id.* (“We must accept the United States’ suggestion that a foreign head of state is immune from suit—even for acts committed prior to assuming office—as a conclusive determination by the political arm of the Government that the continued [exercise of jurisdiction] interferes with the proper conduct of our foreign relations.” (quotation omitted)); *Ye v. Zemin*, 383 F.3d 620, 626 (7th Cir. 2004) (“The obligation of the Judicial Branch is clear—a determination by the Executive Branch that a foreign head of state is immune from suit is conclusive and a court must accept such a determination without reference to the underlying claims of a plaintiff.”); *In re Doe*, 860 F.2d 40, 45 (2d Cir. 1988) (“[I]n the constitutional framework, the judicial branch is not the most appropriate one to define the scope of immunity for heads-of-state. . . . [F]lexibility to react quickly to the sensitive problems created by conflict between individual private rights and interests of international comity are better resolved by the executive, rather than by judicial decision.”); *Doe I v. State of Israel*, 400 F. Supp. 2d 86, 110 (D.D.C. 2005) (Executive Branch conclusion that Prime Minister Ariel Sharon of Israel should be immune from suit is “determinative” against jurisdiction of American courts); *Saltany v. Reagan*, 702 F. Supp. 319, 320 (D.D.C. 1988) (determination of Prime Minister Thatcher’s immunity

was conclusive in dismissing suit), *aff'd in part and rev'd in part on other grounds*, 886 F.2d 438 (D.C. Cir. 1989).

8. When the Executive Branch determines that a sitting head of state is immune from suit, judicial deference to that determination is predicated on compelling considerations arising out of the Executive Branch's authority to conduct foreign affairs under the Constitution. *See Ye*, 383 F.3d at 626 (citing *Spacil v. Crowe*, 489 F.2d 614, 618 (5th Cir. 1974)). Judicial deference to the Executive Branch in these matters, the Seventh Circuit noted, is "motivated by the caution we believe appropriate of the Judicial Branch when the conduct of foreign affairs is involved." *Id.*; *see also Spacil*, 489 F.2d at 619 ("Separation-of-powers principles impel a reluctance in the judiciary to interfere with or embarrass the executive in its constitutional role as the nation's primary organ of international policy." (citing *United States v. Lee*, 106 U.S. 196, 209 (1882))).² In no case has a court subjected a sitting head of state to suit after the Executive Branch has determined that the head of state is immune.³

² The Executive Branch possesses substantial institutional resources and extensive experience with which to conduct the country's foreign affairs. *See, e.g., Spacil*, 489 F.2d at 619; *United States v. Truong Dinh Hung*, 629 F.2d 908, 913–14 (4th Cir. 1980).

³ *See, e.g., Tawfik v. Al-Sabah*, 2012 WL 3542209, *3–4 (S.D.N.Y. Aug. 16, 2012); *Manoharan v. Rajapaksa*, 845 F. Supp. 2d 260 (D.D.C. 2012), *aff'd*, 711 F.3d 178 (D.C. Cir. 2013); *Habyarimana v. Kagame*, 821 F. Supp. 2d 1244, 1263–64 (W.D. Okla. 2011) ("Where the United States' Executive Branch has concluded that a foreign head of state is immune from suit, and where it has urged the Court to take recognition of that fact and to dismiss the suit pending against said head of state, the Court is bound to do so."), *aff'd*, 696 F.3d 1029; *Doe v. Roman Catholic Diocese of Galveston-Houston*, 408 F. Supp. 2d 272, 278 (S.D. Tex. 2005) ("The executive's [head of state immunity] determination is not subject to additional review by a federal court."); *Leutwyler v. Queen Rania Al-Abdullah*, 184 F. Supp. 2d 277, 280 (S.D.N.Y. 2001) (Executive Branch's immunity determination on behalf of Queen of Jordan "is entitled to conclusive deference from the courts"); *First American Corp. v. Al-Nahyan*, 948 F. Supp. 1107, 1119 (D.D.C. 1996) ("The United States has filed a Suggestion of Immunity on behalf of H.H. Sheikh Zayed, and courts of the United States are bound to accept such head of state determinations as

9. In this case, because the Executive Branch has determined that President Rodríguez, as the sitting head of state of Venezuela, enjoys head of state immunity from the jurisdiction of U.S. courts based on her current status, President Rodríguez is entitled to immunity from the jurisdiction of this Court over this suit while she holds that office.

CONCLUSION

For the foregoing reasons, the United States respectfully submits to the Court that President Delcy Rodríguez is immune in this action and that all claims against her should be dismissed without prejudice.

Dated: July 20, 2026

Respectfully submitted,

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conclusive.”); *Alicog v. Kingdom of Saudi Arabia*, 860 F. Supp. 379, 382 (S.D. Tex. 1994) (concluding recognition by Executive Branch of King Fahd’s immunity as head of state of Saudi Arabia required dismissal of complaint against King Fahd for false imprisonment and abuse), *aff’d*, 79 F.3d 1145 (5th Cir. 1996); *Lafontant v. Aristide*, 844 F. Supp. 128, 132–33 (E.D.N.Y. 1994) (determination by Executive Branch of Haitian President Aristide’s immunity was binding and required dismissal).