



FEDERAL ELECTION COMMISSION  
1050 FIRST STREET, N.E.  
WASHINGTON, D.C. 20463

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	:	
	:	MURs 7207/7268
Russian Fed'n, <i>et al.</i>	:	7274/7623
	:	

### SECOND SUPPLEMENTAL STATEMENT OF REASONS OF COMMISSIONER ALLEN J. DICKERSON

In these Matters, the Office of General Counsel (“OGC”) asserted that the Federal Election Campaign Act overrides any sovereign immunity accorded to the Russian Federation by the Foreign Sovereign Immunities Act<sup>1</sup> (“FSIA” or “Act”) due to FSIA’s “limited exception for certain ‘commercial activity.’”<sup>2</sup> In my previous Supplemental Statement of Reasons in these Matters, I took no position on this question, believing that “there [was] certainly an argument that OGC’s analysis is correct.”<sup>3</sup>

Recently, however, the Supreme Court unanimously concluded that statutory commercial exceptions to foreign sovereign immunity must be read narrowly.<sup>4</sup> The Court’s decision clarified that “[t]he FSIA ‘creates a baseline presumption of immunity from suit’” and that “[t]o the extent the Act permits litigation against

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<sup>1</sup> “The [FSIA] provides foreign states with presumptive immunity from suit in the United States,” *Republic of Hungary v. Simon*, 604 U.S. \_\_ (2025) (slip op.); Slip Op. at 5, which is, of course, the only mechanism by which the Commission may seek enforcement against recalcitrant respondents. 52 U.S.C. § 30019(a)(6).

<sup>2</sup> Supp. Statement of Reasons of Vice Chair Dickerson at 6, n.37, MURs 7207/7268/7274/7623, Sept. 16, 2021 (“Dickerson Statement”) (citing 28 U.S.C. § 1605(a)(2)); First Gen’l Counsel’s Report at 44-49, MUR 7207/7268/7274/7623 (Russian Fed’n, *et al.*), Feb. 23, 2021.

<sup>3</sup> Dickerson Statement at 6.

<sup>4</sup> *Republic of Hungary* at 2 (“The issue presented in this case is whether alleging commingling of funds alone can satisfy the commercial nexus requirement of the expropriation exception of the FSIA. The Court holds that it cannot”).

foreign states, it usually requires that the litigation be premised on the foreign state's private, commercial conduct.”<sup>5</sup>

The allegations in these Matters were far removed from such “private, commercial conduct.” Instead, they involved political communications made as part of an information operation waged by the Russian Federation against the United States.<sup>6</sup> The Court's recent guidance shows that such active measures are not subject to the FSIA's commercial exception. Remedies for state action of this kind fall within the field of national security; they are not an appropriate target for the Commission's civil enforcement authority.<sup>7</sup>

“There is further good reason for the [Commission] not to read §1605(a)[2] so broadly...the United States'[s] ‘reciprocal self-interest’ in receiving sovereign immunity in foreign courts.”<sup>8</sup> The United States communicates with foreign audiences, and thus foreign voters, in all sorts of ways. Many of those efforts involve the spending of money and efforts to persuade. It would be foolhardy for the Federal Election Commission to undermine the sovereign immunity of the United States in such cases.

For these reasons, “and heeding Alexander Pope's dictum that admitting error simply means that one is wiser today than one was yesterday,”<sup>9</sup> I have concluded that the FSIA would have applied in these Matters.




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Allen J. Dickerson  
Commissioner

April 25, 2025

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Date

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<sup>5</sup> *Id.* at 15 (quoting *Fed. Republic of Germany v. Philipp*, 592 U.S. 169, 178 (2021)).

<sup>6</sup> See Dickerson Statement at 4-6.

<sup>7</sup> See Zac Morgan, “Deterring Foreign Election Interference,” *The Nat'l Interest*, Sept. 6, 2024, available at: <https://nationalinterest.org/feature/deterring-foreign-election-interference-212635>.

<sup>8</sup> *Republic of Hungary* at 16 (quoting *Nat'l City Bank of N.Y. v. Republic of China*, 348 U.S. 356, 362 (1955)).

<sup>9</sup> *Campaign Legal Ctr v. Fed. Election Comm'n*, 507 F. Supp. 3d 79, 80-81 (D.D.C. 2020) (Boasberg, J.).