

IN THE SUPREME COURT OF THE UNITED STATES

No. 19-351

FEDERAL REPUBLIC OF GERMANY, ET AL., PETITIONERS

v.

ALAN PHILIPP, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting petitioners and requests that the United States be allowed ten minutes of argument time. Petitioners have agreed to cede ten minutes of argument time to the United States and therefore consent to this motion.

This case presents the question of whether the expropriation exception in the Foreign Sovereign Immunities Act of 1976 (FSIA), 28 U.S.C. 1605(a)(3), applies to claims that a foreign sovereign

has seized the property of its own nationals as part of a human-rights violation. The case also presents the question of whether a court may invoke the doctrine of international comity to abstain from exercising jurisdiction under the FSIA. The court of appeals held that the extraterritoriality exception applies to respondents' claim that Germany confiscated the property of its own nationals as part of a genocide, and it further held that the district court could not abstain from exercising jurisdiction based on the doctrine of international comity. Pet. App. 6-17.

The United States has a substantial interest in the resolution of the questions presented because the application of the FSIA has implications with respect to the United States' relations with other sovereigns and the treatment of the United States in foreign courts. At the Court's invitation, the Solicitor General filed an amicus brief on behalf of the United States at the petition stage of this case. The United States has also filed a brief as amicus curiae at the merits stage. That brief, supporting petitioner, contends that the court of appeals erred in holding that the expropriation exception applies to respondents' claims and in holding that a court may not invoke the doctrine of international comity to abstain from exercising jurisdiction in an FSIA case.

The United States has previously presented oral argument as amicus curiae in cases concerning the interpretation and application of the FSIA. E.g., Opati v. Republic of Sudan, 140 S. Ct. 1601 (2020); Republic of Sudan v. Harrison, 139 S. Ct. 1048

(2019); Rubin v. Islamic Republic of Iran, 138 S. Ct. 816 (2018); Bolivarian Republic of Venezuela v. Helmerich & Payne Int'l Drilling Co., 137 S. Ct. 1312 (2017); OBB Personenverkehr AG v. Sachs, 136 S. Ct. 390 (2015); Republic of Argentina v. NML Capital, Ltd., 134 S. Ct. 5 2250 (2014); Samantar v. Yousuf, 560 U.S. 305 (2010). The United States' participation in oral argument is therefore likely to be of material assistance to the Court.

Respectfully submitted.

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Acting Solicitor General
Counsel of Record

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