

When Washington Speaks, the World Listens:

Four US Supreme
Court Decisions That
Resonate Beyond
America's Borders



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The decisions of the US Supreme Court have always carried weight beyond the continental United States. In an era of global commerce, cross-border litigation, and interconnected legal systems, the Court's rulings on sovereign immunity, executive power, international arbitration, and immigration law have global significance. They are particularly important for lawyers operating across jurisdictions—whether advising multinational clients, enforcing arbitral awards, navigating trade regulations, or handling matters touching on state sovereignty.

This article examines four Supreme Court decisions from the Court's 2024 and 2025 Terms with significant implications for international legal practice. The first, *Republic of Hungary v. Simon*, 604 US 115 (2025), concerns the scope of the Foreign Sovereign Immunities Act's expropriation exception and the limits of suing a foreign sovereign for property seized decades ago—a question with deep resonance for Holocaust restitution and, more broadly, for any claim arising from historical state confiscation. The second, *CC/Devas (Mauritius) Ltd. v. Antrix Corp.*, 605 US 223 (2025), resolves a circuit split over whether the FSIA requires proof of “minimum contacts” for personal jurisdiction over a foreign state—a decision of immediate practical consequence for parties seeking to enforce international arbitration awards in US courts.

The third, *Learning Resources, Inc. v. Trump*, 146 S. Ct. 628 (2026), addresses whether the International Emergency Economic Powers Act authorizes the President to impose tariffs—a ruling that goes to the heart of the separation of powers and the boundaries of executive authority over international trade. And the fourth, *Urias-Orellana v. Bondi*, 2026 WL 598435 (2026), clarifies the standard of review that federal courts must apply when evaluating an immigration agency's determination of “persecution”—a question with implications for asylum systems worldwide. For Israeli legal professionals, these decisions offer both instructive parallels and cautionary lessons regarding the enforcement of foreign judgments and arbitral awards, executive authority, and the rights of asylum seekers. What follows is a concise analysis of each decision.

1. Republic of Hungary v. Simon: Holocaust-Era Property Claims and the Limits on the “Expropriation Exception” to the Foreign Sovereign Immunities Act

Background

Few cases before the Supreme Court carry the moral gravity of *Republic of Hungary v. Simon*. The plaintiffs/respondents were Jewish survivors of the Hungarian Holocaust and their heirs, seeking damages for property allegedly seized by Hungary and its national railway, MÁV, during the Second World War. Their complaint recounted that Hungarian officials stripped Jewish citizens of their possessions before transporting them to Nazi death camps, and that the Hungarian Government declared “all valuable objects

owned by Jews” to be “art of the national wealth of Hungary.” Winston Churchill described the Hungarian Holocaust as “probably the greatest and most horrible crime ever committed in the history of the world.”

The plaintiffs/respondents brought suit in the United States under the expropriation exception to the Foreign Sovereign Immunities Act, 28 U.S.C. §1605(a)(3), which permits suits against foreign states when “rights in property taken in violation of international law are in issue” and the property, or property “exchanged for” the expropriated property, has a commercial nexus to the United States. The plaintiffs alleged that Hungary had liquidated the stolen property, commingled the proceeds with government funds, and later used funds from those commingled accounts in connection with commercial activities in the United States—such as issuing bonds and purchasing military equipment in the 2000s.

The Court's Holding

In a unanimous opinion authored by Justice Sotomayor, the Court ruled that plaintiffs' claims did not meet the requirements of the expropriation exception, because "an allegation of commingling alone does not give rise to a plausible inference that specific property 'exchanged for' the expropriated property, i.e., the cash proceeds from the sale, is 'present in the United States.'" The Court said that §1605(a)(3) treats all property alike—tangible and fungible—and requires plaintiffs to trace either

the expropriation exception, while a departure from the restrictive theory of immunity, was not intended to be a "radical departure" from the system's basic principles. And the Court was careful to note that its holding concerned only what plaintiffs must plead to bring suit in US courts—not whether the underlying claims could be brought in another forum. In the Court's words, quoting the Government's amicus brief, "the moral imperative has been and continues to be to provide some measure of justice to the victims of the Holocaust, and to do so in their remaining lifetimes."

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the specific expropriated property itself or particular property exchanged for it to the United States. The Court ruled that plaintiffs' commingling theory "stretches 'exchange' to the point of breaking."

The Court did not foreclose all commingling-based claims, however. It offered illustrative scenarios in which a plaintiff might still satisfy the nexus—for instance, by identifying a US account holding segregated proceeds, as in *Banco Nacional de Cuba v. Sabbatino*, 376 US 398 (1964), or by showing that a foreign sovereign spent all funds from a commingled account in the United States shortly after the commingling occurred. The Court further declined to address the applicability of common-law tracing principles, leaving that question for another day while cautioning that any such principles "must be consistent with the overall FSIA scheme."

Broader Significance

The decision is a significant marker in the ongoing tension between accountability for historical injustice and the principles of sovereign immunity. The Court carefully balanced the FSIA's structure—designed to "avoid, where possible, producing friction" in international relations—against the moral imperative of the respondents' claims. The ruling underscores that

For Israeli practitioners, this decision resonates on multiple levels. Israel has a deep institutional engagement with Holocaust restitution, and its courts and government agencies regularly encounter questions about the enforceability of claims against foreign states for wartime and historical expropriations. The Simon decision makes clear that the US path for such claims through the FSIA expropriation exception is extremely narrow—particularly for property liquidated long ago and absorbed into a sovereign's general treasury. The tracing methodology is not categorically excluded, but the standard of plausibility may prove impossible to satisfy in cases involving decades-old commingling across multiple regime changes and institutional upheavals.

2. CC/Devas (Mauritius) Ltd. v. Antrix Corp.: Personal Jurisdiction Over Foreign Sovereigns and the Enforcement of Arbitral Award

Background

CC/Devas v. Antrix began with a satellite-leasing agreement and ended with a sweeping clarification of

how US courts may exercise personal jurisdiction over foreign states. Antrix Corporation, the commercial arm of India's Department of Space, signed an agreement with Devas Multimedia to lease satellite capacity. After the Indian Government determined it needed greater satellite capacity for itself, Antrix terminated the contract under its force majeure clause. Devas invoked the contract's arbitration provision, and a three-member arbitral panel unanimously awarded Devas \$562.5 million in damages plus interest. After successfully confirming the award in France and the United Kingdom, Devas sought confirmation in a US federal court, which entered a \$1.29 billion judgment against Antrix.

The Ninth Circuit reversed, however, holding that the FSIA required not only an applicable immunity exception and proper service but also a traditional "minimum contacts" analysis under *International Shoe Co. v. Washington*, 326 US 310 (1945). Because Antrix's connections to the United States were slim, the appellate court found personal jurisdiction lacking—even though it did not question that Antrix qualified as a "foreign state" under the FSIA, that an immunity exception applied, or that service was proper.

The Court's Holding

In a unanimous opinion by Justice Alito, the Supreme Court reversed. The Court held that personal jurisdiction exists under §1330(b) of the FSIA whenever an immunity exception applies and service is proper—full stop. The FSIA's personal-jurisdiction provision imposes exactly two requirements: (1) subject-matter jurisdiction, which exists when an immunity exception applies, and (2) proper service under §1608. "Notably absent from the provision is any reference to 'minimum contacts,'" Justice Alito wrote, and "we decline to add what Congress left out, as the FSIA was supposed to 'clarify the governing standards,' not hide the ball."

The Court acknowledged that the FSIA's immunity exceptions themselves require varying degrees of domestic contact, but emphasized that this is because "the exceptions Congress wrote happen to meet that standard, not because the Act's personal-jurisdiction provision secretly incorporated the Court's due-process cases." Reading an additional minimum-contacts requirement into the statute would "weaken the link Congress forged" among the Act's tethered immunity and jurisdictional provisions and "create a gap in the Act's otherwise 'comprehensive framework.'" The Court expressly declined to reach three alternative arguments raised by Antrix—whether the Fifth Amendment itself requires minimum contacts, whether the claims fell within the arbitration exception, and whether the suit should be dismissed under forum non conveniens—leaving those issues for the Ninth Circuit on remand.

Broader Significance

For practitioners in international arbitration—a field of particular importance in Israel, which has an active arbitration community and is party to the New York Convention—CC/Devas is a watershed. The decision removes a significant obstacle to enforcing arbitral awards against foreign sovereigns in US courts. Under the Ninth Circuit's prior rule, even where an immunity exception clearly applied, a plaintiff might still be denied jurisdiction because the foreign state lacked sufficient US contacts. The Supreme Court has now clarified that the FSIA's immunity exceptions are the jurisdictional gatekeepers: if a plaintiff clears that threshold and serves the defendant properly, personal jurisdiction follows automatically.

The practical implications are substantial. Parties who have prevailed in international arbitrations against state-owned entities or sovereign instrumentalities now have a clearer, more reliable pathway to enforce their awards in the United States—one of the most important enforcement jurisdictions in the world. The case also serves as a reminder that the FSIA is a "comprehensive" statutory scheme that displaces common-law doctrines, an observation that has analogs in Israeli law, where statutory frameworks governing sovereign immunity and foreign judgments similarly define the boundaries of judicial authority.

It bears noting, however, that the decision does not resolve every question. The Court left open whether the Fifth Amendment's Due Process Clause independently requires minimum contacts in FSIA cases—a constitutional question that could yet impose limits on jurisdiction in future litigation.

3. Learning Resources, Inc. v. Trump: The Taxing Power, Emergency Authority, and the Limits of Presidential Tariff Power

Background

Learning Resources, Inc. v. Trump arrived at the Supreme Court amid one of the more controversial and consequential economic policy debates in modern American history and a centerpiece of the Trump Administration's economic policy. Shortly after taking office, President Trump declared national emergencies related to drug trafficking from Canada, Mexico, and China, and to "large and persistent" trade deficits. Invoking the International Emergency Economic Powers Act ("IEEPA"), the President imposed sweeping tariffs—25% on most Canadian and Mexican imports,

rates on Chinese goods that ultimately reached an effective 145%, and “reciprocal” tariffs of at least 10% on imports from all trading partners, with dozens of nations facing higher rates. The tariffs were modified repeatedly, with rates shifting from day to day and product categories moving in and out of the framework.

Two sets of plaintiffs—small businesses and a coalition of states—challenged the tariffs, arguing that IEEPA does not authorize the President to impose them. The lower courts agreed, and the Supreme Court granted certiorari on an expedited basis.

The Court’s Holding

In a 6–3 decision, the Supreme Court held that IEEPA does not authorize the President to impose tariffs. Chief Justice Roberts, writing for the Court on the core statutory question, emphasized that Article I of the Constitution vests the taxing power—including the “very clear” branch of that power encompassing tariffs—in Congress alone, and that the “Framers did not vest any part of the taxing power in the Executive Branch.”

IEEPA authorizes the President to “investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit . . . importation or exportation.” The Court found that “regulate,” as ordinarily used, means to “fix, establish, or control” or to “subject to governing principles or laws”—a definition that “is not usually thought to include: taxation.” IEEPA’s nine listed verbs authorize distinct actions a President might take in sanctioning foreign actors, but none includes the “distinct and extraordinary power to raise revenue.” Moreover, when Congress has delegated tariff power in other statutes, it has consistently done so using explicit terms like “duty” or “surcharge” and has imposed strict limits on duration, amount, and procedure.

Three Justices—Roberts, Gorsuch, and Barrett—further relied on the “major questions doctrine,” reasoning that the President must “point to clear congressional authorization” when claiming an extraordinary power. They found it “telling” that in IEEPA’s half century of existence, no President had invoked the statute to impose tariffs, a “‘lack of historical precedent,’ coupled with the breadth of authority” that the President now claimed, suggesting the asserted power exceeded the statute’s reach.

Justice Kagan, joined by Justices Sotomayor and Jackson, agreed on the statutory analysis but declined to invoke the major questions doctrine, concluding that “ordinary principles of statutory interpretation amply support today’s result.” Justice Kavanaugh, joined by Justices Thomas and Alito, dissented, arguing that the

power to “regulate . . . importation” has historically been understood to encompass tariffs, and that the Court erred in applying the major questions doctrine in the foreign affairs context for the first time. Justice Kavanaugh argued that any “citizens or Member of Congress in 1977 [when IEEPA was enacted] who somehow thought that the ‘regulate . . . importation’ language in IEEPA excluded tariffs would have had their heads in the sand.”

Broader Significance

Learning Resources is a landmark in the separation of powers, asserting that Congress’s “birthright” taxing power cannot be delegated through vague statutory language, even in the context of declared national emergencies.

The internal disagreement among the Justices is also noteworthy. The six-Justice majority agreed on the result but divided on methodology. Three Justices relied on the major questions doctrine as a necessary supplement, and applied it, for the first time, in the sphere of foreign affairs, a move the dissent warned could “engender significant uncertainty over the Executive’s exercise of statutory authority” in that realm. Three other justices viewed ordinary statutory interpretation as sufficient. This methodological fracture may prove significant in future cases testing the boundaries of presidential power under broadly worded statutes, particularly in the foreign affairs context.

For Israeli legal professionals, the decision is instructive on several fronts. Israel’s own constitutional order, grounded in Basic Laws rather than a single written constitution, grapples with analogous questions about the scope of executive authority and the limits of emergency powers. The *Learning Resources* majority’s insistence that “emergency powers tend to kindle emergencies” and that delegations of the taxing power require clear authorization echoes concerns familiar to any legal system in which executives have historically invoked security or economic crises to justify expansive action.

More practically, for any Israeli businesses engaged in trade with the United States, the decision provides a measure of certainty that IEEPA cannot serve as a vehicle for unilateral presidential tariffs—although the Court acknowledged, and the dissent emphasized, that other statutory authorities may authorize many of the same measures with additional procedural safeguards. The dissent specifically identified the Trade Expansion Act of 1962 (Section 232), the Trade Act of 1974 (Sections 122, 201, and 301), and the Tariff Act of 1930 (Section 338) as statutes that may continue to authorize presidential tariff actions. The practical upshot is that the executive’s tariff toolkit remains

extensive; what *Learning Resources* curtails is the ability to bypass the specific procedural constraints Congress has embedded in those statutes by invoking IEEPA's broader emergency language.

4. *Urias-Orellana v. Bondi*: Deference and the Standard of Review for Persecution Determinations

Background

Urias-Orellana v. Bondi concerns a question of administrative law and immigration procedure, but its implications touch on the universal challenge of adjudicating claims of persecution. Petitioners Douglas Humberto Urias-Orellana, his wife Sayra Iliana Gamez-Mejia, and their minor child, all natives of El Salvador, entered the United States without authorization in 2021 and applied for asylum.

The Immigration Judge credited his testimony but concluded it did not establish past persecution or a well-founded fear of future persecution, and the BIA affirmed. The First Circuit upheld the agency's determination, applying the deferential "substantial-evidence" standard of review. The question before the Supreme Court was whether the courts of appeals must apply this deferential substantial-evidence standard to the agency's determination of whether undisputed facts constitute "persecution," or whether they should review that legal application de novo.

The Court's Holding

In a unanimous opinion by Justice Jackson, the Court held that the INA requires substantial-evidence review of the agency's entire persecution determination—both the underlying factual findings and the application of the statutory standard to those facts. The Court grounded its analysis in *INS v. Elias-Zacarias*, 502 US 478 (1992), which had held that an asylum applicant must show that "the evidence he presented was so compelling that no reasonable factfinder could fail

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Under the Immigration and Nationality Act, an applicant qualifies as a "refugee" eligible for asylum if he "is unable or unwilling to return" to his country "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Urias-Orellana testified credibly that a hitman from his hometown had been targeting him since 2016, had shot two of his half-brothers, and had vowed to kill every member of his family. Despite relocating within El Salvador several times, he was repeatedly tracked down, threatened, and on one occasion physically assaulted.

to find the requisite fear of persecution." Congress's subsequent enactment of §1252(b)(4)(B)—providing that "administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary"—effectively codified the *Elias-Zacarias* standard.

The Court rejected petitioners' argument that de novo review should apply because the persecution determination is a "mixed question of law and fact." The Court observed that the overall determination "primarily requires the IJ to make critical factual findings about a given applicant's experiences" and that IIRIRA's amendments tended to restrict, not

expand, judicial review of immigration determinations. The Court also distinguished its prior decisions in *Wilkinson v. Garland*, 601 US 209 (2024), and *Guerrero-Lasprilla v. Barr*, 589 US 221 (2020), noting that those cases addressed whether a mixed question qualifies as a “question of law” exempt from the INA’s jurisdiction-stripping bar—a distinct inquiry from the standard of review applicable once jurisdiction exists.

Broader Significance

Urias-Orellana resolves a circuit split and establishes a uniform, deferential standard of review for persecution determinations across the federal courts. The practical effect is to make it harder for asylum seekers to obtain judicial reversal of agency findings—a result that has drawn both praise from those who view deference to agency expertise as appropriate and criticism from those who worry about the adequacy of protection for vulnerable individuals.

The decision also carries a notable doctrinal implication. The Court took care to note that its holding—that §1252(b)(4)(B) sets forth a deferential standard—meant there was no need to address petitioners’ argument based on *Loper Bright Enterprises v. Raimondo*, 603 US 369 (2024), the recent decision overruling Chevron deference. This suggests that where Congress has enacted a specific statutory standard of review, that standard controls regardless of the broader shifts in administrative law deference doctrine.

The decision is of considerable interest to Israeli practitioners and policymakers. Israel’s own asylum and refugee framework—administered under a system that has faced persistent criticism from human rights organizations—involves analogous questions about the standard of review applicable to administrative decisions on refugee status. The *Urias-Orellana* Court’s emphasis on congressional intent to restrict judicial oversight of immigration determinations provides a useful point of comparison for any jurisdiction wrestling with the proper balance between agency expertise and judicial scrutiny in the asylum context.

More broadly, the case highlights the degree to which procedural standards—seemingly technical questions about burdens of proof and standards of review—can have profound substantive consequences. The Court’s unanimous decision underscores its adherence to a deferential standard of review in the context of asylum cases.

The foregoing analysis is based on the full text of the Supreme Court’s opinions in each of the four cases discussed. Practitioners are encouraged to consult the complete opinions for the detailed reasoning of the majority, concurring, and dissenting Justices.