

THE CARACAS PRECEDENT: NARCO-TERRORISM AS AN EXCEPTION TO CUSTOMARY HEAD-OF-STATE IMMUNITY

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On January 3, 2026, United States special forces captured Nicolás Maduro together with his wife, Cilia Adela Flores de Maduro, in Caracas, Venezuela to face narco-terrorism charges in the Southern District of New York.² This event sent shockwaves around the geopolitical arena on whether such an operation and potential departure from the custom of Head-of-State Immunity will ultimately disturb geopolitical balance.³ This article examines whether the U.S. indictment of Nicolás Maduro for narco-terrorism establishes an exception to the customary international law principle of Head-of-State Immunity.⁴ Using the *United States v. Noriega* as a blueprint, this paper examines the procedure and legal basis the United States uses to proceed with its questionable cases.⁵ Additionally, by comparing the Maduro indictment to the *United States v. Noriega* precedent, this paper explores the policy of non-recognition by the U.S. to bypass the Head-of-State Immunity that every official is granted by the U.S. Supreme Court.⁶ Moreover, this paper will explore the complex dynamic between official and personal acts, and how they affect the former Venezuelan leader's eligibility to be granted a Head-of-State Immunity by the court.⁷ This analysis concludes that the U.S. has established a "narco-terrorism" exception that prioritizes internal safety and criminal accountability over established international custom.⁸

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² Yonas Tesfa Sisay, *The Caracas Precedent: Unilateralism, Sovereignty, and the Future of International Order*, THE REPORTER ETHIOPIA (Jan. 17, 2026), <https://www.thereporterethiopia.com/48658/>.

³ Michael Schmitt, Ryan Goodman & Tess Bridgeman, *International Law and the U.S. Military and Law Enforcement Operations in Venezuela*, JUST SECURITY (Jan. 5, 2026), <https://www.justsecurity.org/127981/international-law-venezuela-maduro/>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Sisay, *supra* note 2.

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I. BACKGROUND

On Saturday, January 3, 2026, U.S. Army Special Forces, with support from the U.S. Air Force, captured Nicolas Maduro in Caracas, Venezuela, and transported him to the Southern District of New York to face federal criminal charges.⁹ The operation executed a federal arrest warrant issued in connection with a March 2020 indictment charging Maduro with narco-terrorism conspiracy under 21 U.S.C § 960a, cocaine

⁹ Luc Cohen & Jack Queen, *Maduro Case to Test US Narcoterrorism Law that Has Had Limited Trial Success*, REUTERS (Mar. 26, 2026, 5:02 AM UTC), <https://www.reuters.com/world/americas/maduro-case-test-us-narcoterrorism-law-with-limited-trial-success-2026-03-26/>.

importation conspiracy, and related weapon offenses.¹⁰ Maduro's arrest raises concerns about whether his indictment by the U.S. for narco-terrorism establishes an exception to the customary international law principle of Head-of-State Immunity.¹¹

Nicolás Maduro was raised in Caracas¹² in a working-class household; his father was a trade unionist active in leftist politics.¹³ Instead of attending university, Maduro's early interest in left-wing politics led him to train as an organizer in Cuba.¹⁴ He subsequently became a bus driver in Caracas and ascended the ranks of the transit workers' union as a representative.¹⁵ In 1992, after then-army officer Hugo Chávez was imprisoned for leading a failed coup attempt, Maduro and his future wife, Cilia Flores, a young lawyer at the time, successfully campaigned for Chávez's release in 1994.¹⁶ Ultimately, Maduro was elected as Venezuela's president in April 2013,¹⁷ following the death of Hugo Chavez, by a margin of approximately 1.5 percent – the narrowest result in modern Venezuelan electoral History.¹⁸ Opposition candidate Henrique Capriles alleged irregularities and demanded a recount, which the National Electoral Council denied.¹⁹ Maduro's subsequent re-election in May 2018, which the opposition largely boycotted, was rejected as illegitimate by the United

¹⁰ JURIST Staff, *The Charges Against Nicolás Maduro: What the Indictment Alleges*, JURIST (Jan. 5, 2026, 3:37 PM), <https://www.jurist.org/features/2026/01/05/the-charges-against-nicolas-maduro-what-the-indictment-alleges/>.

¹¹ Schmitt, Goodman & Bridgeman, *supra* note 3.

¹² *Nicolás Maduro*, ENCYCLOPÆDIA BRITANNICA (Jan. 19, 2026), <https://www.britannica.com/biography/Nicolas-Maduro>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Chavez Heir Maduro Wins Venezuela Presidential Election*, BBC NEWS (Apr. 14, 2013), <https://www.bbc.com/news/world-latin-america-22146214>.

¹⁹ *Capriles Formally Contests Venezuelan Election Result*, BBC NEWS (May 2, 2013), <https://www.bbc.com/news/world-latin-america-22384620>.

States, the European Union, and the Organization of American States.²⁰ These contested elections form the factual predicate for the U.S. policy of non-recognition, examined in part II, under which the United States has declined to treat Nicolas Maduro as Venezuela's lawful head of state.

On March 26, 2020, the U.S. Department of Justice pressed charges against Maduro and 14 current and former Venezuelan officials in the Southern District of New York.²¹ Maduro's indictment charges him with four federal counts: narco-terrorism conspiracy, conspiracy to import cocaine, using and carrying machine guns and destructive devices in furtherance of those drug-trafficking conspiracies, and conspiracy to do the same.²² Each is explained in Part II.

II. THE BARRIER

A. *Nicolas Maduro's Four Counts*

1. Count One: Narco-Terrorism Conspiracy (21 U.S.C. § 960a)

The first count from 2020 is for Narco-terrorism Conspiracy, the legal centerpiece of Maduro's indictment. Section 960a of Title 21 of the United States Code (U.S.C.)²³ asserts that any individual "knowing or intending to provide, directly or indirectly, anything of pecuniary value to

²⁰ Reporting on Maduro's 2018 reelection states that the United States did not recognize him as Venezuela's president, the European Union rejected the result, and the Organization of American States treated the election as illegitimate. Tom Hals, *Maduro's Immunity Claim Tests US Power to Prosecute Foreign Leaders*, REUTERS (Jan. 6, 2026, 10:00 PM UTC), <https://www.reuters.com/world/americas/maduros-immunity-claim-tests-us-power-prosecute-foreign-leaders-2026-01-06/>.

²¹ Press Release, U.S. ATTY'S OFF. S.D.N.Y., *Manhattan U.S. Attorney Announces Narco-Terrorism Charges Against Nicolas Maduro, Current and Former Venezuelan Officials, and FARC Leadership* (Mar. 26, 2020), <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-narco-terrorism-charges-against-nicolas-maduro-current>.

²² Superseding Indictment at 14, *United States v. Maduro Moros*, No. S4 11 Cr. 205 (AKH) (S.D.N.Y. Jan. 3, 2026), <https://www.justice.gov/opa/media/1422326/dl>.

²³ 21 U.S.C. § 960a (2018).

any person or organization that has engaged or engages in terrorist activity.” The indictment claims that from at least 1999 up to, and including, 2025, Maduro and his co-defendants were directly involved in distributing five kilograms or more cocaine, knowing and intending that this would provide financial support to designated Foreign Terrorist Organizations (FTOs), such as the Revolutionary Armed Forces of Colombia FARC, FARCEP, Segunda Marquetalia, the National Liberation Army ELN, Tren de Aragua, the Sinaloa Cartel, and the Cartel del Noreste (formerly known as the Zetas).²⁴

The U.S. State Department formally designated each of these organizations as a Foreign Terrorist Organization (FTO) under 8 U.S.C. § 1189, which authorizes the Secretary of State to designate any foreign organization that engages in terrorist activity threatening the security of United States nationals or the national security of the United States.²⁵ The Revolutionary Armed Forces of Colombia (FARC) was among the first to be designated, on October 8, 1997, based on its decades-long insurgency, including bombings, kidnappings, and assassinations carried out to finance its operations through cocaine trafficking. The National Liberation Army (ELN) was designated the same day for its parallel insurgent campaign in Colombia, marked by pipeline attacks and kidnappings of foreign nationals.²⁶ FARC-EP and Segunda Marquetalia represent dissident factions that rejected the 2016 Colombian peace accord and resumed armed trafficking and attacks under the FARC banner; both received separate

²⁴ Press Release, U.S. ATTY’S OFF. S.D.N.Y., *Manhattan U.S. Attorney Announces Narco-Terrorism Charges Against Nicolas Maduro, Current and Former Venezuelan Officials, and FARC Leadership* (Mar. 26, 2020), <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-narco-terrorism-charges-against-nicolas-maduro-current>.

²⁵ 8 U.S.C. § 1189(a)(1) (2024).

²⁶ Designation of Foreign Terrorist Organizations, 62 Fed. Reg. 52,650 (Oct. 8, 1997), <https://www.federalregister.gov/documents/1997/10/08/97-27030/designation-of-foreign-terrorist-organizations>.

designations.²⁷ In February 2025, the Department designated the Sinaloa Cartel, the Cartel del Noreste, and Tren de Aragua as FTOs, citing their role in fentanyl and cocaine trafficking, armed assaults on Mexican and Venezuelan state forces, and transactional extortion and kidnapping operations.²⁸ Each designation supplies the statutory predicate that converts the underlying drug conspiracy into narco-terrorism under 21 U.S.C § 960a.²⁹

2. Count Two: Cocaine Importation Conspiracy (21 U.S.C. § 963)

The second count charges six defendants: Nicolás Maduro Moros, his wife Cilia Adela Flores de Maduro, his son Nicolás Ernesto Maduro Guerra (known as “Nicolasito” or “The Prince”), Diosdado Cabello Rondón (Minister of the Interior, Justice and Peace), Ramón Rodríguez Chacín (former Minister of the Interior and Justice), and Hector Rusthenford Guerrero Flores (leader of the transnational gang Tren de Aragua).³⁰ All six defendants were charged with conspiracy to import controlled substances into the United States from around 1999 to 2025³¹. The indictments alleges three distinct objects of the conspiracy: (1) knowingly importing cocaine into the United States in violation of 21 U.S.C. §§ 952(a) and 960(a)(1),³² 2) manufacturing, distributing, and possessing cocaine with intent to

²⁷ Foreign Terrorist Organization Designations of FARC-EP and Segunda Marquetalia, 86 Fed. Reg. 68,294 (Dec. 1, 2021), <https://www.federalregister.gov/documents/2021/12/01/2021-26091/in-the-matter-of-the-designation-of-revolutionary-armed-forces-of-colombia-peoples-army-and-other>.

²⁸ Foreign Terrorist Organization Designations of Tren de Aragua, Mara Salvatrucha, Cartel de Sinaloa, Cartel de Jalisco Nueva Generacion, Carteles Unidos, Cartel del Noreste, Cartel del Golfo, and La Nueva Familia Michoacana, 90 Fed. Reg. 10,030 (Feb. 20, 2025), <https://www.federalregister.gov/documents/2025/02/20/2025-02873/foreign-terrorist-organization-designations-of-tren-de-aragua-mara-salvatrucha-cartel-de-sinaloa>.

²⁹ Fla. S. Comm. on Appropriations, Bill Analysis of CS/HM 167 (2023), <https://www.flsenate.gov/Session/Bill/2023/167/Analyses/h0167b.SAC.PDF>.

³⁰ Superseding Indictment at 14, *United States v. Maduro Moros*, No. S4 11 Cr. 205 (AKH) (S.D.N.Y. Jan. 3, 2026), <https://www.justice.gov/opa/media/1422326/dl>.

³¹ *Id.*

³² *Id.*

distribute, knowing it would be unlawfully imported into the United States or within 12 miles of U.S. coastal waters, in violation of 21 U.S.C. §§ 959(a) and 960(a)(3);³³ and 3) manufacturing, distributing, and possessing cocaine aboard aircraft registered in the United States, in violation of 21 U.S.C. §§ 959(c) and 960(a)(3).³⁴

For quantities of five or more kilograms of cocaine, the threshold alleged, the mandatory minimum sentence is 10 years³⁵ with a maximum of life imprisonment.³⁶

3. Counts Three and Four: Firearms Offenses 18 U.S.C. § 924)

Both are relatively alike yet distinguishable; the third count alleges that Maduro was in possession of machine guns and destructive weapons in relation to the drug trafficking crimes alleged in Counts One and Two.³⁷ At the same time, Count Four charges conspiracy to possess such weapons.³⁸ These charges stem from the alleged provision of military-grade weaponry, including machine guns, ammunition, rocket launchers, grenades, and grenade launchers, to FARC.³⁹

Under 18 U.S.C. § 924(c)(1)(B)(ii), “Using or carrying machine guns during drug trafficking crimes carries a mandatory minimum sentence of 30

³³ *Id.*

³⁴ *Id.*

³⁵ *US Indicts Venezuelan Leader Nicolas Maduro, Offers \$15 Million Reward for His Capture*, CBS MIAMI (Mar. 26, 2020), <https://www.cbsnews.com/miami/news/sources-venezuela-to-be-designated-state-sponsor-of-terrorism-us-to-charge-maduro/>.

³⁶ *Id.*

³⁷ U.S. DEPT OF STATE, *Wanted: Nicolás Maduro Moros Reward Increase of Up to \$25 Million*, U.S. EMBASSY IN PANAMA (Jan. 10, 2025), <https://pa.usembassy.gov/wanted-nicolas-maduro-moros-reward-increase-of-up-to-25-million/>.

³⁸ *Id.*

³⁹ Jonathan Turley, *Why Capture of Maduro Didn't Require Approval from Congress*, FOX NEWS (Jan. 3, 2026), <https://www.foxnews.com/opinion/jonathan-turley-why-capture-maduro-didnt-require-approval-from-congress>.

years, consecutive to any other sentence.”⁴⁰ Combined with the drug charges, these offenses create a minimum compulsory aggregate sentence of 50 years with a maximum of life imprisonment.⁴¹

B. *Maduro's Career-Long Involvement*

Between the years 2000 and 2006, as a member of Venezuela's National Assembly, Nicolas Maduro allegedly used his protection of Venezuelan law enforcement to move an immense amount of cocaine.⁴² Or as the U.S. District court, Southern District of New York, puts it, “For over 25 years, leaders of Venezuela have abused their positions of public trust and corrupted once-legitimate institutions to import tons of cocaine into the United States.”⁴³

While serving as Venezuelan Minister of Foreign Affairs between 2006 and 2013, Nicolas Maduro allegedly used his position to provide Venezuelan diplomatic passports to drug traffickers and provided diplomatic protection for aircrafts operated by money launderers to return drug profits to Venezuela from Mexico.⁴⁴ Moreover, the indictment describes specific incidents where Maduro called the Venezuelan embassy in Mexico to arrange for private planes to be loaded with drug proceeds under the guise of diplomatic missions.⁴⁵

⁴⁰ Geoffrey S. Berman, U.S. Att’y, S.D.N.Y., Remarks as Prepared for Delivery: *U.S. Attorney Geoffrey S. Berman Announces Charges in U.S. v. Maduro et al.* 3–4 (Mar. 26, 2020), <https://www.justice.gov/opa/page/file/1262756/dl>.

⁴¹ *Id.*

⁴² Bob Van Voris & Myles Miller, *Maduro Accused of 25 Years of Narco-Terrorism Crimes by DOJ*, BLOOMBERG LAW (Jan. 3, 2026), <https://news.bloomberglaw.com/us-law-week/doj-releases-maduro-indictment-alleges-narco-terrorism-scheme>.

⁴³ Amy Curtis, *Attorney General Pam Bondi Released the Maduro Indictment. Here's What It Says*, TOWNHALL (Jan. 3, 2026, 1:15 PM), <https://townhall.com/tipsheet/amy-curtis/2026/01/03/maduro-indictment-n2668818>.

⁴⁴ Van Voris & Miller, *supra* note 42.

⁴⁵ *Id.*

Upon succeeding Hugo Chávez in 2013,⁴⁶ Nicolas Maduro, as Vice President and then President, allegedly continued and expanded the existing drug trafficking conspiracy. Months after his inauguration in September 2013, Venezuelan officials dispatched a shipment of approximately 1.3 tons of cocaine on a commercial flight from Maiquetia Airport to Paris.⁴⁷ Following the seizure of the shipment by French authorities, Maduro reportedly convened a meeting with co-defendants Cabello Rondon and Carvajal Barrios.⁴⁸ During this meeting, he is alleged to have criticized them for using Maiquetia Airport, citing a previous 5.5-ton cocaine seizure in Mexico in 2006⁴⁹, and directed them to utilize alternative trafficking routes.⁵⁰ Maduro subsequently authorized the arrests of lower-level military officials to serve as a cover-up for the operation.⁵¹

C. *Jurisdictional Basis: Extraterritorial Application*

The substantive authority to prosecute Maduro for conduct occurring outside the United States derives from the narco-terrorism statute, which extends extraterritorially when “after the conduct required for the offense occurs an offender is brought into or found in the United States.”⁵² Venue is supplied by the federal extraterritorial-venue statute, which provides that “[t]he trial of all offenses begun or committed... out of the jurisdiction of any particular State or district[] shall be in the district in which the offender, or any one of two or more joint offenders, is arrested or is first brought.”⁵³ Together, these provisions allow the prosecution to

⁴⁶ *Nicolás Maduro*, *supra* note 12.

⁴⁷ *US Attacks Venezuela, Captures President Maduro*, JURIST (Jan. 3, 2026), <https://www.jurist.org/news/2026/01/us-attacks-venezuela-captures-president-maduro/>.

⁴⁸ Superseding Indictment at 14, *United States v. Maduro Moros*, No. S4 11 Cr. 205 (AKH) (S.D.N.Y. Jan. 3, 2026), <https://www.justice.gov/opa/media/1422326/dl>.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² 21 U.S.C. § 960a(b)(5) (2018).

⁵³ 18 U.S.C. § 3238 (2018).

proceed in the Southern District of New York once at least one defendant is brought into that district.⁵⁴

Section 960a is not a freestanding extraterritorial drug statute; it operates by incorporating the Controlled Substances Act's basic distribution offense as its predicate and adding a terrorism-financing element.⁵⁵ Specifically, § 960a reaches “conduct that would be punishable under section 841(a)” when the actor knows or intends to provide, directly or indirectly, anything of pecuniary value to a person or organization that has engaged in terrorist activity.⁵⁶ This construction is what allows the indictment to charge narco-terrorism (Count One) rather than only the underlying cocaine importation conspiracy (Count Two).⁵⁷

D. *Two types of immunity*

International law recognizes two types of immunities given to state officials:⁵⁸

1. Ratione personae⁵⁹

This status-based immunity is given to the official position itself.⁶⁰ Sitting heads of state, heads of government, and foreign ministers are granted absolute immunity from criminal and civil jurisdiction in foreign

⁵⁴ See 21 U.S.C. § 960a(b)(5) (2018); 18 U.S.C. § 3238 (2018).

⁵⁵ 21 U.S.C. § 960a(a) (2018) (defining the offense by reference to the conduct described in 21 U.S.C. § 841(a)); see also 21 U.S.C. § 841(a) (2018) (the underlying Controlled Substances Act prohibition on manufacture, distribution, and possession with intent to distribute).

⁵⁶ 21 U.S.C. § 960a(a) (2018).

⁵⁷ Superseding Indictment ¶ 12, *United States v. Maduro Moros*, No. S4 11 Cr. 205 (AKH) (S.D.N.Y. Jan. 3, 2026), <https://www.justice.gov/opa/media/1422326/dl>.

⁵⁸ Magnus Mannerström, *Head of State Immunity and International Crimes* (2015) (Master's thesis, Lund University), <https://www.lunduniversity.lu.se/lup/publication/5435470>.

⁵⁹ Iskra Miralem, *Head of State Immunity and Immunity Claims Against Witness Subpoena Requests*, War Crimes Memos No. 1067 (Nov. 16, 2022), <https://scholarlycommons.law.case.edu/warcrimesmemos/1067/>.

⁶⁰ *Id.*

national courts for all acts.⁶¹ Whether official or private, this doctrine grants full immunity for offenses committed before or during their time in office.⁶² Consequently, this immunity allows officials to discharge their representative functions without interference from foreign jurisdictions.⁶³

2. Ratione Materiae⁶⁴

This is conduct-based immunity, which provides full immunity for officials acting in an official capacity in foreign national courts.⁶⁵ Former heads of state retain absolute immunity for acts committed during their time in office, yet not for private acts performed during that time.⁶⁶ The rationale is that prosecuting official state acts would violate principles of sovereign equality between nations.⁶⁷

E. *International courts*

These two doctrines do not apply in international courts due to the Nuremberg trials.⁶⁸ International law holds that no official of any state is immune from genocide, war crimes, crimes against humanity, homicide, torture, grave breaches of the Geneva Conventions, crimes against internationally protected persons under the Vienna Convention of 1961 on Diplomatic Relations.⁶⁹

Article 7 of the Nuremberg Charter stated:

The official position of defendants, whether as Heads of State or responsible officials in Government Departments, shall not be

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

considered as freeing them from responsibility or mitigating punishment.⁷⁰

This principle was codified as Nuremberg Principle III:

The fact that a person who committed an act which constitutes a crime under international law acted as Head of State... does not relieve him from responsibility under international law.⁷¹

F. *The U.S. Position: Non-Recognition*

The U.S. has taken a different position entirely, not recognizing Nicolas Maduro as the president of Venezuela.⁷²

Instead, the U.S. has recognized the opposition leader Juan Guaidó and, later, Edmundo González Urrutia as Venezuela's legitimate interim president, arguing that the 2018 and 2024 elections were fraudulent.⁷³ By not recognizing Nicolas Maduro as the president of Venezuela in 2019, the U.S. has allowed itself to absolutely bypass the law shielding foreign leaders.⁷⁴ Secretary of State Marco Rubio stipulated: “Maduro is NOT the president of Venezuela and his regime is NOT the legitimate government.”⁷⁵

⁷⁰ Chile Eboe-Osuji, *No Immunity for Heads of State for International Crimes*, LAWFARE (May 23, 2024, 2:25 PM), <https://www.lawfaremedia.org/article/no-immunity-for-heads-of-state-for-international-crimes>.

⁷¹ *Id.*

⁷² *The Charges Against Nicolás Maduro: An Explainer*, N.Y. TIMES (Oct. 1, 2025), <https://www.nytimes.com/2025/10/01/nyregion/nicolas-maduro-venezuela-charges-explainer.html>.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Marco Rubio (@SecRubio), X (July 27, 2025), <https://x.com/SecRubio/status/1949424526401692094>.

III. The Exception

A. (*United States v. Noriega*, 1990)

1. The Power of Executive Recognition (Status-Based Immunity)

Manuel Antonio Noriega Moreno was the de facto military ruler of Panama from 1983 until his removal by U.S. forces in 1989.⁷⁶ During his tenure, he ran a militarized authoritarian regime characterized by repression of political opposition, control of the media, and the use of torture, disappearances, and extrajudicial killings against critics and rivals.⁷⁷ He also used his control of the Panamanian Defense Forces to facilitate cocaine trafficking through Panama in coordination with the Medellín Cartel.⁷⁸ The United States never recognized Noriega as Panama's constitutional head of state.⁷⁹

After Noriega's apprehension by U.S. forces during Operation Just Cause, he was indicted in the United States District Court for the Southern District of Florida and moved to dismiss on head-of-state immunity grounds.⁸⁰ The district court rejected the defense. It held, first, that *ratione personae* immunity in U.S. courts depends on a recognition determination by the Executive — and the State Department had never recognized Noriega as Panama's legitimate leader, which alone defeated the status-based claim.⁸¹ It held, second, that even if Noriega had been entitled to consider conduct-based immunity, drug trafficking for personal

⁷⁶ *Manuel Noriega*, ENCYCLOPÆDIA BRITANNICA, <https://www.britannica.com/biography/Manuel-Noriega>.

⁷⁷ *Id.*

⁷⁸ *United States v. Noriega*, 746 F. Supp. 1506, 1513–15 (S.D. Fla. 1990), <https://law.justia.com/cases/federal/district-courts/FSupp/746/1506/1757098/>.

⁷⁹ *Id.* at 1522.

⁸⁰ *Id.*

⁸¹ *Id.* at 1521-28

enrichment could not qualify as an “official act” of the Panamanian state and therefore fell outside *ratione materiae*.⁸²

After the abduction of Noriega by the U.S. military, Noriega was taken to the U.S. District Court for the Southern District of Florida in Miami.⁸³ Noriega’s lawyer filed for Ratione Personae, yet the doctrine was declined by the executive branch.⁸⁴ It reasoned that head-of-state immunity in U.S. courts is conditioned on a recognition determination by the Executive Branch, and that the United States had never recognized Noriega as Panama’s legitimate leader, leaving no head of state to whom the customary immunity could attach.⁸⁵ In U.S. courts, immunity is granted to legitimate leaders recognized by the U.S. president and the U.S. state department, which Noriega was not.⁸⁶

As the Secretary of State, Marco Rubio stated, Maduro is “NOT the president ...”.⁸⁷ This policy of non-recognition allows the U.S. to treat Maduro as a private citizen rather than a sovereign leader.

2. The Private Act vs. Official Act Distinction (Conduct-Based Immunity)

Maduro’s and Noriega’s narco-trafficking journeys stemmed entirely from self-enrichment rather than providing beneficial factors to the country itself.⁸⁸ The U.S. court viewed this as a private act rather than an official act, which is not deemed a matter that warrants conduct-based immunity (*ratione materiae*).⁸⁹ The court clearly stated there is “ample doubt whether

⁸² *Noriega*, 746 F. Supp. at 1521–28.

⁸³ *Id.*

⁸⁴ *Noriega*, 746 F. Supp. at 1521–28.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Rubio, *supra* note 75.

⁸⁸ Alice Bennett, *Manuel Noriega: Messed Up Details About the Notorious Dictator*, GRUNGE (May 1, 2023, 7:44 PM EST), <https://www.grunge.com/1267655/manuel-noriega-messed-up-details-notorious-dictator/>.

⁸⁹ *Noriega*, 746 F. Supp. at 1521–28.

head of state immunity extends to private or criminal acts in violation of U.S. law.”⁹⁰ Drug trafficking, the court implied, cannot constitute a protected sovereign act.⁹¹

3. The Ker-Frisbie Doctrine: Legality of the Capture

The Ker-Frisbie doctrine, *Ker v. Illinois* 1886 and *Frisbie v. Collins* 1952, established by the United States Supreme Court: “Forcible abduction is no sufficient reason why the party should not answer when brought within the jurisdiction of the court.”⁹² Additionally, in *United States v. Alvarez-Machain* 1992, the Supreme Court held that DEA agents' unlawful abduction of a Mexican national did not bar prosecution.⁹³ Thus, meaning that even if the abduction of the defendant, in this case, Nicolas Maduro, was a violation of Venezuela’s sovereignty or of international law, U.S. domestic courts will still proceed with the trial once the defendant is physically in court.⁹⁴

Nicolas Maduro’s capture by the U.S. is seen by some scholars as the *Caracas Precedent*, where the U.S. places its domestic laws, accusing the defendant of narco-trafficking, over international law, Article 2(4) of the UN Charter, which prohibits every country from threatening or using force against the territorial integrity or political independence of any state and *ratione Personae*.⁹⁵

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Ker v. Illinois*, 119 U.S. 436 (1886),
<https://supreme.justia.com/cases/federal/us/119/436/>.

⁹³ *United States v. Alvarez-Machain*, 504 U.S. 655 (1992),
<https://supreme.justia.com/cases/federal/us/504/655/>.

⁹⁴ *Alvarez-Machain*, 504 U.S. at 669–70.

⁹⁵ Gwyneth K. Shaw, *U.S. Flouted “Central Rule of International Law” with Venezuela Raid to Arrest Maduro*, Professor Saira Mohamed Says, BERKELEY LAW (Jan. 20, 2026),
<https://www.law.berkeley.edu/article/professor-saira-mohamed-international-law-nicolas-maduro-venezuela-united-nations/>.

4. Comparison Table: Noriega (1990) vs. Maduro (2026)⁹⁶

Legal Factor	Manuel Noriega (1990)	Nicolás Maduro (2026)
Status	De facto leader (not recognized)	Partially recognized President
U.S. Recognition	Denied (U.S.-recognized Endara)	Denied (U.S. recognizes González)
Primary Charges	Drug smuggling & RICO	Narco-terrorism & Firearms
Method of Capture	Military Invasion (Op. Just Cause)	Special Ops (Jan 3, 2026)

CONCLUSION

Nicolas Maduro, an authoritarian leader elected in 2013, is charged with four counts of narco-terrorism.⁹⁷ Ultimately captured by the U.S. Army and taken to court in the Southern District of New York.⁹⁸ The capture of the Venezuelan president, Nicolas Maduro, was not only a major military

⁹⁶ David J. Scheffer, *Maduro's Capture and International Law: The Noriega Precedent*, COUNCIL ON FOREIGN RELATIONS (Jan. 6, 2026, 12:22 PM), <https://www.cfr.org/articles/maduros-capture-and-international-law-noriega-precedent>.

⁹⁷ *Nicolás Maduro Was "Captured" by the US. This Is Who He Is*, ABC NEWS (AUSTL.) (Jan. 3, 2026), <https://www.abc.net.au/news/2026-01-03/nicolas-maduro-captured-by-us-military-who-is-he/104783352>.

⁹⁸ *Nicolás Maduro Will Appear in U.S. Federal Court on Monday*, NPR (Jan. 4, 2026), <https://www.npr.org/2026/01/04/nx-s1-5666351/nicolas-maduro-new-york-court-charges>.

event but also a legal one.⁹⁹ This clash of international and domestic laws demonstrates how the U.S. successfully instrumentalized the non-recognition of a country's president to strip away his status-based immunity.¹⁰⁰ Maduro's long-time involvement in narco-trafficking and cocaine importation was deemed by the U.S. court as a private act that came out of determination for self-enrichment rather than providing for the country's welfare, thus declining the defendant's possible utilization of *Ratione Materiae*.¹⁰¹ This parallels the *United States v. Noriega* case, in which the former unrecognized leader of Panama during the 1990s was captured by the U.S. military and taken to court in the Southern District of Florida, sitting in Miami.¹⁰² There, Noriega faced court for assisting and operating narco-trafficking throughout Latin America.¹⁰³ The Floridian court ruled that private acts do not constitute immunity in either of the two forms of immunity existing for country leaders.¹⁰⁴ While these cases might seem to violate international law, such as the UN Charter (sovereignty Article 2(4)), U.S. domestic law, including the Ker-Frisbie doctrine, allows these types of irregular legal events to proceed.¹⁰⁵ The U.S. successfully placed its own domestic law above international law, demonstrating how it employs the restriction of immunity theory.¹⁰⁶ Narco-terrorism is a crime that demands serious action, even if it endangers international order.¹⁰⁷ Ultimately, the U.S. has established a "narco-terrorism exception" in which

⁹⁹ Mark Kersten & Mayya Chaykina, *To Prosecute or Not to Prosecute: Maduro's Indictment, Head-of-State Immunity, and the United States' Instrumentalisation of Non-Recognition*, JUSTICE IN CONFLICT (Jan. 6, 2026), <https://justiceinconflict.org/2026/01/06/to-prosecute-or-not-to-prosecute-maduros-indictment-head-of-state-immunity-and-the-united-states-instrumentalisation-of-non-recognition/>.

¹⁰⁰ *Id.*

¹⁰¹ Scheffer, *supra* note 96.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Davit Khachatryan, *Illegality Without Consequences? Venezuela, Force, and the Erosion of Legal Constraint*, INTERNATIONAL POLICY FORUM (Jan. 13, 2026), <https://internationalpolicy.org/publications/venezuela-and-the-erosion-of-legal-constraint/>.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

the need for global accountability for serious crimes, such as narco-trafficking, outweighs the absolute immunity usually given to country leaders.