

PUBLIC

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EXTRA 49/02

Legal concern/Impunity

1 July 2002

**USAUN Security Council: No double standards on international justice**

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The USA vetoed the extension of the UN Mission in Bosnia and Herzegovina (UNMIBH) at the UN Security Council on 30 June. This was because the USA did not get immunity for its personnel from the jurisdiction of the International Criminal Court (ICC). The USA did however agree to a 72-hour extension of the mission to allow for further discussion.

By demanding immunity for crimes such as genocide, war crimes and crimes against humanity the USA is effectively declaring itself to be above international law and outside the international system of justice.

The Rome Statute of the ICC already contains ample safeguards that would protect any United States troops against politically motivated or frivolous prosecutions. These include an independent Prosecutor elected by the state parties. The Prosecutor will need authorization from a panel of judges before starting an investigation. The UN Security Council has the authority to defer any investigation. The ICC will only act if national courts are unable or unwilling to take action.

The Rome Statute of the ICC enters into force on 1 July 2002. So far, a total of 139 states have signed the Statute and 74 countries, including Bosnia and Herzegovina, have ratified it. Further ratifications are expected in the coming days.

**BACKGROUND INFORMATION**

The Rome Statute was adopted by the international community on 17 July 1998 at a diplomatic conference in Rome. It provides for the establishment of a permanent ICC with jurisdiction over genocide, crimes against humanity and war crimes. In May 2001, the Bush administration withdrew the US signature on the ICC treaty, and has been conducting a campaign to undermine the court.

The ICC will not take the place of national courts but will be complementary to them. It will only act when national courts are unwilling or unable to do so. The ICC can only investigate and prosecute crimes committed after 1 July 2002. The Rome Statute makes clear that state officials, no matter what their rank or position, have no immunity for these crimes.

The ability of the ICC to act is also limited to some degree by whether a state has ratified the Statute - this is the reason that Amnesty International is calling on all states to ratify. The Court will only be able to carry out investigations and prosecutions if the crime was committed on the territory of a state which has ratified; or, the state makes a declaration that it accepts the Court's jurisdiction over the crime; or; the accused person is the national of a state that has ratified. In addition, an important provision gives the UN Security Council the authority to refer any situation to the ICC - regardless of whether a state has ratified - if it considers it a threat to international peace and security.

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:**

- asking that the USA drops its request that US personnel be granted immunity from the jurisdiction of the International Criminal Court (ICC) in Bosnia and Herzegovina;

-calling on the USA to support universal standards for international justice.

**APPEALS TO:**

The Honourable Colin Powell  
Secretary of State  
US Department of State  
2201 C Street, N.W.  
Washington, DC 20520, USA  
**Fax: + 1 202 261 8577**  
**Salutation: Dear Secretary of State**

George W. Bush  
The President  
The White House  
Office of the President  
1600 Pennsylvania Avenue  
Washington, DC 20500, USA  
**Fax: + 1 202 456 2461**  
**Salutation: Dear President Bush**

**COPIES TO:** Diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**