

International Law

Chapter Assignment 2¹

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Statehood is very important to a government. Being recognized as a state offers it some rather amazing powers and protections. It also offers some rather interesting quandaries in real life, especially with respect to what actually constitutes a state. For instance, is Somalia a state? Its government cannot meet in Mogadishu because it is too dangerous. As a result, they meet in Nairobi and pass laws that really have no effect. So, is it a state? What about Somaliland? It is a break away part of Somalia that has a functioning government, port, and economy. Is it a state?

The answers are not just academic. The head of state enjoys certain immunities from prosecution. Dave Heineman is Head of State for Nebraska. Were Nebraska considered a State in international law, he would enjoy sovereign immunity—to the same level as Dr. Mahmoud Ahmadinejad, the Head of State (President) of Iran.

You are a judge for the International Court of Justice in The Hague. It seems as though a Belgian investigating judge has issued an international arrest warrant on 25 July 2005 against the Minister for Foreign Affairs for <named territory from below>. That state contends that Belgium violated the “principle that a State may not exercise its authority on the territory of another State”, the “principle of sovereign equality among all Members of the United Nations, as laid down in Article 2, paragraph 1, of the Charter of the United Nations”, as well as “the diplomatic immunity of the Minister for Foreign Affairs of a sovereign State, as recognized by the jurisprudence of the Court and following from Article 41, paragraph 2, of the Vienna Convention of 18 April 1961 on Diplomatic Relations”. In order to found the Court’s jurisdiction the Congo invoked in the aforementioned Application the fact that “Belgium had accepted the jurisdiction of the Court”.

Belgium counters that the state is not really a state according to international law. As such, the Minister of Foreign Affairs does not enjoy diplomatic immunity from prosecution. In other words, the issue comes down to what makes a state. Using the named territory matching the last digit of your Blue logon username, make a decision in the above case. You will need to do research into the requirements of statehood and the real conditions of these states. You will also need to anticipate the objections to your argument and counter them.

- 0, 1: Chechnya (Ichkeria)
- 2, 3, 5: Western Sahara
- 4: Somaliland
- 6: Trans-Dniester (Transdnestria, Pridnestrovie)
- 7, 8: Taiwan
- 9: Somalia

¹ Much of this information comes from the International Court of Justice website (<http://www.icj-cij.org/>).