



International Law

Assignment for Chapter 2*

Ole J. Forsberg, Ph.D.

University of Tennessee

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. Bredesen is Head of State for Tennessee. If Tennessee is really a State according to international law, then he enjoys sovereign immunity, as does Dr. Ahmadi Nejad, the Head of State for 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 _____ . 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 ‘maybe-state’ matching the last digit of your student ID number, 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.

- 0, 1: Chechnya (Ichkeria)
- 2, 3: Montenegro (Crna Gora)
- 4, 5: Somalia
- 6, 7: Somaliland
- 8, 9: Trans-Dniester (Transnistria, Pridnestrovie)

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