

## **EU COMPROMISE ON US IMPUNITY AGREEMENTS A SETBACK FOR THE ICC**

### **AMNESTY INTERNATIONAL DECRIES THE EU'S "POOR EXAMPLE"**

Brussels (30 Sept.) Amnesty International says today's compromise decision by European Union foreign ministers which opens the door to new impunity agreements with the United States, means the EU is effectively breaking its own commitment to preserve the full integrity of the Rome Statute establishing the International Criminal Court.

Amnesty International is deeply concerned that although today's decision requires member states not to enter into agreements with the US which would lead to impunity, it is worded in such a way that some states may use it as an excuse to enter into agreements that give US citizens and others impunity for genocide, crimes against humanity and war crimes in the ICC or any other court.

"US pressure has paid off," said Dick Oosting, Director of Amnesty International's EU Office. "The EU has allowed the US to shift the terms of the debate from legal principle to political opportunism. However stringent the conditions for this concession, accepting the possibility of new bilateral agreements violates both the spirit and the letter of the Rome Statute," he said.

"The purpose of the US is to exempt its nationals from the jurisdiction of the Court rather than to ensure that they are brought to justice if they were to commit crimes under the Rome Statute."

Amnesty International says the EU's political compromise does not have sufficient safeguards to ensure that people suspected of crimes will not benefit from impunity. For example:

- 1) The compromise does not require that the state seeking to exempt its nationals have defined all of the crimes in the Rome Statute consistently with the Statute or to have incorporated principles of criminal responsibility and defences consistently with customary international law. The US cannot satisfy such a requirement;
- 2) There is no requirement that the fundamental principle of complementarity in the Rome Statute be included which permits the ICC to exercise jurisdiction when states are unable or unwilling to investigate or prosecute;
- 3) Thus, if the US fails to investigate or prosecute in good faith or imposes a derisory sentence neither the ICC nor the state that surrendered the suspect to the US could remedy the situation.

"The EU is attempting the impossible - to safeguard the ICC while accommodating the US and trying to hold together a common position. The political impact of this decision will be to bolster the US administration's efforts in its relentless campaign to undermine the effectiveness of the International Criminal Court," said Dick Oosting.

"The question now is what effect this EU decision will have on countries who want to uphold the Rome Statute but are under considerable pressure from the US to sign?"

"The most embarrassing outcome for the EU will be if countries which are less scrupulous in respecting human rights now seek similar agreements with the EU," he said.

Amnesty International will be campaigning worldwide to keep governments, including those of EU countries, from entering into US agreements, and if they do, to prevent their parliaments from ratifying them.

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