



By: Tomorrow's Affairs Staff

# Sanctioning the ICC harms the interests and international reputation of the USA



The House passed the International Criminal Court (ICC) sanctions bill on Tuesday, which has not done the USA's interests and reputation in the world any good.

Irrespective of the slim chances of this bill coming to fruition due to the lack of support in the US Senate, the bipartisan support in the House is an expression of a very clear and broad political rejection of the ICC's work.

The administration of President Joe Biden bears some of the responsibility for the passage of the bill in the House, regardless of strongly opposing the imposition of sanctions against members of the ICC, which the bill provides for.

Since the ICC prosecutor, Karim Khan, **indicted** leaders of Hamas for the crimes committed in Israel on October 7 and, at the same time, Israeli Prime Minister Benjamin Netanyahu for violence against civilians in Gaza, Washington has struggled to determine how to respond to this crucial moment in the crisis.

“The ICC prosecutor’s application for arrest warrants against Israeli leaders is outrageous. Whatever this prosecutor might imply, there is no equivalence – none – between Israel and Hamas,” President Biden **said** regarding the ICC indictment against Israeli PM and Defence Minister Yoav Gallant.

## Putting the brakes on halfway

Initially, the government sent a clear signal that it would oppose the international court's action until the end, thereby encouraging the Israeli government and pro-Israel politicians at home, but later faltered.

“We don’t believe the ICC has jurisdiction, so we don’t support these arrest warrants. However, we don’t believe that sanctioning the ICC is the answer,” said National Security Council spokesperson John Kirby.

Republican representatives in the US Congress took the initiative to sanction the ICC staff,

giving the impression that party politics drove the attempt to halt the administration halfway.

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As a result, their refusal to accept ICC sanctioning was very confusing, both for their US supporters and even more so for the Israeli government.

The epilogue is pretty bad for the US government because a whole series of 42 pro-Israeli members of the Democratic Party also voted in favour of the ICC sanctions bill.

The simultaneous indictment of the Hamas leader and the Israeli head of government could not, of course, go without a reaction from Washington, given that the US does not recognise the jurisdiction of the ICC, especially as it has a strong alliance with Israel.

But in modelling its position towards the decision of the Prosecutor of the Court in The Hague, the US government lacked attention to many other aspects of this decision.

## The problem with allies

The USA has long been extremely critical of the actions of the Israeli army in Gaza and the resulting catastrophic humanitarian situation. Despite being the largest ally, the US has been among the harshest critics of such policies by the Netanyahu government, which has earned it important credibility with partners in the search for solutions to the crisis, particularly in the Middle East.

However, an inconsistent response to the ICC's actions will weaken this capital and harm the government's standing both domestically and with its allies in Israel.

“The United States said that they would, in fact, back the sanctions bill. I thought that was still the American position. Now you say there’s a question mark and frankly I’m surprised and disappointed,” **said** Israeli PM Netanyahu, quite disappointed in Washington's confusing moves.

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The Democratic administration's ambivalent position comes at a time when it is struggling internally to emphasise the primacy of judicial decisions over political views, as in the case of Donald Trump's conviction in the New York court.

Despite the fact that the US does not recognise the jurisdiction of the ICC, this international court enjoys a very high international **reputation**. 124 countries, including many of the USA's most important allies—members of NATO and the EU, then Australia, Canada, Japan, and South Korea—recognise its authority and its basic document, the Rome Statute.

## Israel's independent investigation

Therefore, the serious disqualification of the ICC by a bipartisan bill in the House poses a major reputational risk for the US among its allies as the protector and greatest global promoter of the rule of law and democracy.

The US has risked this powerful tool of soft power to defend not only Israel but also its government and prime minister, who have severely damaged their own reputations as a result of the violence in Gaza.



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At the same time, the disqualification of the ICC in the case of the Israeli government undermines the strength of US support for the same court in the context of its indictment and arrest warrant against Vladimir Putin.

The United States has worked closely with the ICC to gather evidence and support its indictment and arrest warrant against the Russian president. In this context, the Senate passed a bipartisan resolution describing the ICC as "an international tribunal that seeks to uphold the rule of law, especially in areas where no rule of law exists."

The US has probably completely missed the opportunity to force Israel to conduct an independent, objective, and thorough investigation into the causes of the Palestinian humanitarian catastrophe in Gaza.

Such an investigation would be fully in line with the ICC's principles, which state that it only intervenes in cases and against those actors where an impartial and law-based investigation of crimes is not possible.

Although it will take several months for the ICC to rule on Prosecutor Khan's request for an arrest warrant against Israeli leaders, there is still time to mitigate and perhaps even reverse the international court's decision by launching an internal investigation in Israel.

The US has an interest in supporting such development and, as much as possible,

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stopping the decline of its international  
reputation as a protector of the rule of law.