

**APPLICATION OF THE CONVENTION ON THE PREVENTION
AND PUNISHMENT OF THE CRIME OF GENOCIDE**

(Croatia v Yugoslavia)

On 14 September 1999 the Court handed down an Order that established the time limits for the filing of written pleadings by the parties.

INTRODUCTION

On 2 July 1999 Croatia instituted proceedings in the International Court of Justice against Yugoslavia in accordance with Article 40(1) of the Statute of the Court and Article 38 of the Rules of Court. In its Application, Croatia alleged that Yugoslavia had violated the 1948 Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention"). Croatia claimed that the Court had jurisdiction pursuant to Article 36(1) of the Statute of the Court and Article IX of the Genocide Convention.

In its Preliminary Statement,¹ Croatia provided an historical background to its existence as a state. It stated that prior to its declaration of independence in 1991, Croatia had existed in one form or another for at least 1,000 years. During this period, it retained its legal status and autonomy within the Hungarian Kingdom framework and the Habsburg monarchy.

In 1992, members of the European Community and United States recognised Croatia as a sovereign state. In the same year, Croatia was granted United Nations membership. Within a year, Croatia was recognised by 102 states, 78 of which had established formal diplomatic relations with it.²

CROATIA'S CLAIMS IN ITS STATEMENT OF FACTS

Croatia made a number of claims against Yugoslavia in its Application, including the following:

1. Yugoslavia, its agents, officials and surrogates, had violated articles II(a)-(d) and III(a)-(e) of the Genocide Convention with respect to Croatia and its peoples. In particular, Yugoslavia had committed the

¹ See generally Croatia's application at para 2.

² *Ibid* at para 3.

violations by, *inter alia*, seizing control of the Knin region and Eastern Slavonia from 1991-1995, shelling and attacking portions of Dalmatia, and driving Croats (and other non-Serb) citizens from these areas with the intent to “ethnically cleanse” these regions, to unite them with the Federal Republic of Yugoslavia, and to form a “greater” Serbian state.³

2. Yugoslavia had carried out aggression against Croatia by supporting, abetting and directing the actions of various extremist rebel groups within Croatia to rebel against the lawful and Serb democratically elected government of Croatia. Yugoslavia had done this by directing and supporting these groups, providing them with military personnel and supplies, and money to enable the rebels to oppose the work of Croatian police.⁴ One such group was the so-called Yugoslav People’s Army (“JNA”).⁵
3. In 1992 a ceasefire had been brokered by Mr Cyrus Vance,⁶ special envoy of the United Nations Secretary General.⁷ As a result, the Security Council passed a resolution announcing the deployment of a protective, peacekeeping mission (“UNPROFOR”)⁸ in Croatia.⁹ Although the intervention of United Nations Forces in February 1992 ended the armed conflict within Croatia, it froze a situation in which Yugoslavia retained control of the Croatian territory it had seized illegally. This violated international law and the United Nations Charter.¹⁰
4. In another resolution¹¹ the General Assembly declared illegal, null and void Yugoslavia’s “activities aimed at achieving the integration of the occupied territories of Croatia into the administrative, military, educational, transportation, and communications systems” of Yugoslavia. The resolution called upon Yugoslavia to cease

³ Ibid at para 32.

⁴ Ibid at para 11.

⁵ Ibid at para 10.

⁶ Former Secretary of State of United States.

⁷ Refer Croatia’s Application at para 18.

⁸ Namely, United Nations Protection Force.

⁹ See S/RES 743 on 21 February 1992 and S/RES 749 on 7 April 1992.

¹⁰ Refer Croatia’s application at para 19. Note also that in August 1995, upon the recommendation of the international community, Croatia and the Serbs from the occupied territories met in Geneva to try to reach a settlement on the third state and the peaceful reintegration of the occupied areas. However, the Serbian delegation turned down all Croatian proposals: refer Croatia’s Application at para 21.

¹¹ Resolution 49/630 (1995).

providing military and logistic support to the occupying Serbs, and specifically and forcefully condemned the acts of ethnic cleansing by the Serbs in the UNPAs.¹²

5. Yugoslavia's "abhorrent policy of ethnic cleansing"¹³ had been recognised as genocide by the United Nations General Assembly in a resolution¹⁴ passed on 18 December 1992.¹⁵
6. Yugoslavia, in participating in various ways in military and paramilitary actions in and against Croatia directly, and by means of its agents and surrogates, asserted *de facto* control over areas in Croatia, making it liable for violations of the Genocide Convention that occurred on Croatian territory.¹⁶

JUDGMENT SOUGHT BY CROATIA

Croatia requested the Court to adjudge and declare as follows:

1. That Yugoslavia had breached its legal obligations towards the People and Republic of Croatia under Articles I, II(a)-(d), III(b)-(e), IV and V of the Genocide Convention.
2. That Yugoslavia had an obligation to pay to Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by violations of international law in a sum to be determined by the Court.

¹² Refer Croatia's Application at para 19.

¹³ For example by July 1991 there were 30,000 registered displaced persons. At the peak of the refugee crisis there were 600,000 displaced persons registered, including 15,000 survivors of a massacre in Vukovar. After 1995 Croatia discovered 120 mass graves: *ibid* at paras 12-13.

¹⁴ See A/Res/47/121.

¹⁵ Refer Croatia's application at para 34.

¹⁶ *Ibid* at para 15.