



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)

Conclusion of the public hearings

Court to begin its deliberation

THE HAGUE, 1 April 2014. The public hearings in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia) were concluded today. The Court will now begin its deliberation.

During the hearings, which opened on Monday 3 March 2014 at the Peace Palace, seat of the Court, the delegation of the Republic of Croatia was led by Ms Vesna Crnić-Grotić, Professor of International Law, University of Rijeka, as Agent; and the delegation of the Republic of Serbia was led by Mr. Saša Obradović, First Counsellor of the Embassy of the Republic of Serbia in the Kingdom of the Netherlands, former Legal Adviser of the Ministry of Foreign Affairs, as Agent.

The Court's Judgment will be rendered at a public sitting, the date of which will be announced in due course.

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Final submissions of the Parties

At the end of the oral proceedings, the Parties presented the following final submissions to the Court:

For Croatia (on 21 March 2014 with respect to the Applicant's claim):

"On the basis of the facts and legal arguments presented by the Applicant, it respectfully requests the International Court of Justice to adjudge and declare:

1. That it has jurisdiction over all the claims raised by the Applicant, and there exists no bar to admissibility in respect of any of them.

2. That the Respondent is responsible for violations of the Convention on the Prevention and Punishment of the Crime of Genocide:

(a) in that persons for whose conduct it is responsible committed genocide on the territory of the Republic of Croatia against members of the Croat ethnic group on that territory, by:

- killing members of the group;
- causing deliberate bodily or mental harm to members of the group;
- deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- imposing measures intended to prevent births within the group;

with the intent to destroy that group in whole or in part, contrary to Article II of the Convention;

(b) in that persons for whose conduct it is responsible conspired to commit the acts of genocide referred to in paragraph (a), were complicit in respect of those acts, attempted to commit further such acts of genocide and incited others to commit such acts, contrary to Article III of the Convention;

(c) in that, aware that the acts of genocide referred to in paragraph (a) were being or would be committed, it failed to take any steps to prevent those acts, contrary to Article I of the Convention;

(d) in that it has failed to bring to trial persons within its jurisdiction who are suspected on probable grounds of involvement in the acts of genocide referred to in paragraph (a), or in the other acts referred to in paragraph (b), and is thus in continuing breach of Articles I and IV of the Convention;

(e) in that it has failed to conduct an effective investigation into the fate of Croatian citizens who are missing as a result of the genocidal acts referred to in paragraphs (a) and (b), and is thus in continuing breach of Articles I and IV of the Convention.

3. That as a consequence of its responsibility for these breaches of the Convention, the Respondent is under the following obligations:

(a) to take immediate and effective steps to submit to trial before the appropriate judicial authority, those citizens or other persons within its jurisdiction including but not limited to the leadership of the JNA during the relevant time period who are suspected on probable grounds of having committed acts of genocide as referred to in paragraph (2) (a), or any of the other acts referred to in paragraph (2) (b), and to ensure that those persons, if convicted, are duly punished for their crimes;

(b) to provide forthwith to the Applicant all information within its possession or control as to the whereabouts of Croatian citizens who are missing as a result of the genocidal acts for which it is responsible, to investigate and generally to co-operate with the authorities of the Applicant to jointly ascertain the whereabouts of the said missing persons or their remains;

(c) forthwith to return to the Applicant all remaining items of cultural property within its jurisdiction or control which were seized in the course of the genocidal acts for which it is responsible; and

(d) to make reparation to the Applicant, in its own right and as parens patriae for its citizens, for all damage and other loss or harm to person or property or to the economy of Croatia caused by the foregoing violations of international law, in a sum to be determined by the Court in a subsequent phase of the proceedings in this case. The Applicant reserves the right to introduce to the Court a precise evaluation of the damages caused by the acts for which the Respondent is held responsible.”

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For Serbia (on 28 March 2014 with respect to the Applicant’s claim and the Respondent’s counter-claim):

“On the basis of the facts and legal arguments presented in its written and oral pleadings, the Republic of Serbia respectfully requests the Court to adjudge and declare:

I

1. That the Court lacks jurisdiction to entertain the requests in paragraphs 2 (a), 2 (b), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 3 (c) and 3 (d) of the Submissions of the Republic of Croatia as far as they relate to acts and omissions, whatever their legal qualification, that took place before 27 April 1992, i.e., prior to the date when Serbia came into existence as a State and became bound by the Convention on the Prevention and Punishment of the Crime of Genocide.
2. In the alternative, that the requests in paragraphs 2 (a), 2 (b), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 3 (c) and 3 (d) of the Submissions of the Republic of Croatia as far as they relate to acts and omissions, whatever their legal qualification, that took place before 27 April 1992, i.e., prior to the date when Serbia came into existence as a State and became bound by the Genocide Convention, are inadmissible.
3. That the requests in paragraphs 2 (a), 2 (b), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 3 (c) and 3 (d) of the Submissions of the Republic of Croatia relating to the alleged violations of the obligations under the Convention on the Prevention and Punishment of the Crime of Genocide after 27 April 1992 be rejected as lacking any basis either in law or in fact.
4. In the further alternative, that the requests in paragraphs 2 (a), 2 (b), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 3 (c) and 3 (d) of the Submissions of the Republic of Croatia as far as they relate to acts and omissions, whatever their legal qualification, that took place before 8 October 1991, i.e., prior to the date when Croatia came into existence as a State and became bound by the Genocide Convention, are inadmissible.
5. In the final alternative, should the Court find that it has jurisdiction concerning the requests relating to acts and omissions that took place before 27 April 1992 and that they are admissible, respectively that they are admissible in so far as they relate to acts and omissions that took place before 8 October 1991, that the requests in paragraphs 2 (a), 2 (b), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 3 (c) and 3 (d) of the Submissions of the Republic of Croatia be rejected in their entirety as lacking any basis either in law or in fact.

II

6. That the Republic of Croatia has violated its obligations under Article II of the Convention on the Prevention and Punishment of the Crime of Genocide by committing, during and after

Operation Storm in 1995, the following acts with intent to destroy the Serb national and ethnical group in Croatia as such, in its substantial part living in the Krajina region:

- killing members of the group;
 - causing serious bodily or mental harm to members of the group; and
 - deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.
7. Alternatively, that the Republic of Croatia has violated its obligations under Article III (b), (c), (d) and (e) of the Convention on the Prevention and Punishment of the Crime of Genocide through the acts of conspiracy, direct and public incitement and attempt to commit genocide, as well as complicity in genocide, against the Serb national and ethnical group in Croatia as such, in its substantial part living in the Krajina region.
8. As a subsidiary finding, that the Republic of Croatia has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by having failed and by still failing to punish acts of genocide that have been committed against the Serb national and ethnical group in Croatia as such, in its substantial part living in the Krajina region.
9. That the violations of international law set out in paragraphs 6, 7 and 8 of these Submissions constitute wrongful acts attributable to the Republic of Croatia which entail its international responsibility, and, accordingly,
- (1) that the Republic of Croatia shall immediately take effective steps to ensure full compliance with its obligation to punish acts of genocide as defined by Article II of the Convention, or any other acts enumerated in Article III of the Convention committed on its territory during and after Operation Storm;
 - (2) that the Republic of Croatia shall immediately amend its Law on Public Holidays, Remembrance Days and Non-Working Days, by way of removing the “Day of Victory and Homeland Gratitude” and the “Day of Croatian Defenders”, celebrated on 5 August, as a day of victory in the genocidal Operation Storm, from its list of public holidays; and
 - (3) that the Republic of Croatia shall redress the consequences of its international wrongful acts, that is, in particular:
 - (a) pay full compensation to the members of the Serb national and ethnical group from the Republic of Croatia for all damages and losses caused by the acts of genocide, in a sum and in a procedure to be determined by the Court in a subsequent phase of this case; and
 - (b) establish all necessary legal conditions and secure environment for the safe and free return of the members of the Serb national and ethnical group to their homes in the Republic of Croatia, and to ensure conditions of their peaceful and normal life including full respect for their national and human rights.”

For Croatia (on 1 April 2014 with respect to the Respondent's counter-claim):

“On the basis of the facts and legal arguments presented by the Applicant, it respectfully requests the International Court of Justice to adjudge and declare:

That in relation to the counter-claims put forward in the Counter-Memorial, the Rejoinder and during these proceedings, it rejects in their entirety the sixth, the seventh, the eight and the ninth submissions of the Respondent on the grounds that they are not founded in fact or law.”

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Internal Judicial Practice of the Court with respect to deliberations

Deliberations take place in private in accordance with the following procedure: the Court first holds a preliminary discussion on a list of issues drawn up by the President which require discussion and decision by the Court. Each judge then prepares a Note setting out in detail his or her views on the case. Each Note is distributed to the other judges. A full deliberation is then held, at the end of which, on the basis of the views expressed, a drafting committee is chosen by secret ballot. That committee consists in principle of two judges holding the majority view of the Court, together with the President, unless it appears that his views are in the minority. The committee first prepares a preliminary draft text which is the subject of written amendments, and then two drafts which form the subject of two successive readings. In the meantime, judges who wish to do so may prepare a declaration, a separate opinion or a dissenting opinion, the initial version of which must be provided after the first reading of the draft Judgment. The final vote is taken after adoption of the final text of the Judgment at the second reading.

Note: The Court's press releases are prepared by its Registry for information purposes only and do not constitute official documents.

The final submissions presented by the Parties on 21 March, 28 March and 1 April 2014 are available as video files in the original English-language version. These video files (which come in three formats: Flash, SD/MPEG2 and HD/MPEG4) can be downloaded from the Court's website, under the heading “Press Room / Multimedia”.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United

Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other mostly criminal judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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