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Press Release

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Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)

Public hearings on the merits of the dispute to open on Monday 27 February 2006

THE HAGUE, 8 December 2004. Public hearings in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) will open on Monday 27 February 2006 before the International Court of Justice (ICJ), principal judicial organ of the United Nations.

The precise schedule for those hearings, which will deal with the merits of the dispute, will be announced later.

History of the proceedings

On 20 March 1993, Bosnia and Herzegovina filed with the Registry of the Court an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948. Bosnia and Herzegovina invoked Article IX of that Convention as the basis of the Court's jurisdiction.

In its Application, Bosnia and Herzegovina requested, *inter alia*, that the Court adjudge and declare that Serbia and Montenegro, through its agents and surrogates, "has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina", that it must immediately cease this alleged practice of "ethnic cleansing" and pay reparations.

On 20 March 1993 Bosnia and Herzegovina also submitted a request for provisional measures. Public hearings were held on 1 and 2 April 1993, and by an Order dated 8 April 1993 the Court indicated that Serbia and Montenegro "should immediately . . . take all measures within its power to prevent commission of the crime of genocide" and that both Serbia and Montenegro and Bosnia and Herzegovina "should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute . . . or render it more difficult of solution".

On 27 July 1993 Bosnia and Herzegovina filed a second request for provisional measures. On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects". On 10 August 1993 a similar

request for provisional measures was filed by Serbia and Montenegro. Public hearings were held on 25 and 26 August 1993, and by an Order dated 13 September 1993 the Court reaffirmed the measures indicated on 8 February 1993, adding that they should be immediately and effectively implemented.

The Memorial of Bosnia and Herzegovina was filed on 15 April 1994 within the time-limit as extended by an Order of the Court of 7 October 1993.

On 26 June 1995, within the time-limit for the deposit of its Counter-Memorial, as extended by the same Order of the Court, Serbia and Montenegro filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Art. 79 of the Rules of Court). After Bosnia and Herzegovina had filed a written statement on the preliminary objections within the time-limit of 14 November 1995 fixed by the Court's Order of 14 July 1995, public hearings were held between 29 April and 3 May 1996. On 11 July 1996, the Court delivered its Judgment, rejecting the objections of Serbia and Montenegro.

In the Counter-Memorial it filed on 22 July 1997, Serbia and Montenegro submitted counter-claims requesting the Court to adjudge and declare that "Bosnia and Herzegovina [was] responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina" and that it "[had] the obligation to punish the persons held responsible" for these acts. It also asked the Court to rule that "Bosnia and Herzegovina [was] bound to take necessary measures so that the said acts would not be repeated in future" and "to eliminate all consequences of the violation of the obligations established by the . . . [Genocide] Convention".

By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings". After each Party had filed written observations, the Court, by an Order of 17 December 1997, held that Serbia and Montenegro's counter-claims were "admissible as such" and that they formed "part of the current proceedings" in the case; the Court also directed the Parties to submit further written pleadings on the merits of their respective claims and fixed time-limits for the filing of a Reply by Bosnia and Herzegovina and of a Rejoinder by Serbia and Montenegro. Those time-limits having been extended at the request of each of the Parties, the Reply of Bosnia and Herzegovina was eventually filed on 23 April 1998 and the Rejoinder of Serbia and Montenegro on 22 February 1999. In those pleadings, each of the Parties contested the allegations made by the other.

Since then several exchanges of letters have taken place concerning new procedural issues in the case.

By an Order of 10 September 2001 the President of the Court placed on record the withdrawal by Serbia and Montenegro of the counter-claims submitted by that State in its Counter-Memorial. The Order was made after Serbia and Montenegro had informed the Court that it intended to withdraw its counter-claims and Bosnia and Herzegovina had indicated to the latter that it had no objection to such withdrawal.

It is further recalled that, on 3 February 2003, the Court rendered its Judgment in the case concerning Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina). In that Judgment the Court found that the request for revision of the Judgment of 11 July 1996 submitted by Serbia and Montenegro was inadmissible.

In a letter dated 12 June 2003, the Registrar informed the Parties of the Court's decision that it could not, in the circumstances of the case, suspend proceedings on the merits, as Serbia and Montenegro had requested in a document entitled "Initiative to the Court to reconsider ex officio jurisdiction over Yugoslavia". In that document, filed with the Registry on 4 May 2001, Serbia and Montenegro had contended that the Court had no jurisdiction ratione personae and that it should accordingly dispose of that issue first.

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