



# INTERNATIONAL COURT OF JUSTICE

Peace Palace, 2517 KJ The Hague. Tel: +31 (0)70 302 23 23. Cables: Intercourt,  
The Hague. Fax: +31 (0)70 364 99 28. Telex: 32323. E-mail address:  
mail@icj-cij.org. Internet address: <http://www.icj-cij.org>.

**Press Release**

Unofficial

No. 2006/9  
27 February 2006

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

**Opening of the public hearings on the merits**

THE HAGUE, 27 February 2006. The public hearings on the merits in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro) open today at the International Court of Justice (ICJ), the principal judicial organ of the United Nations. They will last until Tuesday 9 May 2006.

In light of the length and complexity of the procedural history of the case, and for the convenience of the public and the media, a full account of the procedure is provided below.

History of the proceedings

On 20 March 1993, the Government of Bosnia and Herzegovina filed in the Registry of the Court an Application instituting proceedings against 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, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter "the Genocide Convention"), as well as various matters which Bosnia and Herzegovina claimed were connected therewith. The Application invoked Article IX of the Genocide Convention as the basis of the jurisdiction of the Court.

On 20 March 1993, immediately after the filing of its Application, Bosnia and Herzegovina submitted a request for the indication of provisional measures pursuant to Article 73 of the Rules of Court. On 1 April 1993, the Federal Republic of Yugoslavia submitted written observations on Bosnia and Herzegovina's request for provisional measures, in which it, in turn, recommended that the Court indicate provisional measures to be applied to Bosnia and Herzegovina. By an Order dated 8 April 1993, the Court, after hearing the Parties, indicated certain provisional measures.

By an Order dated 16 April 1993, the President of the Court fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 as the time-limit for the filing of the Counter-Memorial of the Federal Republic of Yugoslavia.

On 27 July 1993, Bosnia and Herzegovina submitted a new request for the indication of provisional measures. On 10 August 1993, the Federal Republic of Yugoslavia also submitted a request for the indication of provisional measures and on 10 August and 23 August 1993, it filed

written observations on Bosnia and Herzegovina's new request. By an Order dated 13 September 1993, the Court, after hearing the Parties, reaffirmed the measures indicated in its Order of 8 April 1993 and stated that those measures should be immediately and effectively implemented.

By an Order dated 7 October 1993, the Vice-President of the Court, at the request of Bosnia and Herzegovina, extended the time-limit for the filing of the Memorial to 15 April 1994 and accordingly extended the time-limit for the filing of the Counter-Memorial to 15 April 1995. Bosnia and Herzegovina filed its Memorial within the extended time-limit thus fixed.

By an Order dated 21 March 1995, the President of the Court, at the request of the Federal Republic of Yugoslavia, extended the time-limit for the filing of the Counter-Memorial to 30 June 1995. Within the extended time-limit thus fixed, the Federal Republic of Yugoslavia, referring to Article 79, paragraph 1, of the Rules of Court of 14 April 1978, raised preliminary objections concerning the Court's jurisdiction to entertain the case and to the admissibility of the Application. Accordingly, by Order of 14 July 1995, the President of the Court noted that, by virtue of Article 79, paragraph 3, of the Rules of Court as then in force, the proceedings on the merits were suspended. On 14 November 1995, within the time-limit fixed by the Court, Bosnia and Herzegovina filed a written statement of its observations and submissions on the preliminary objections raised by the Federal Republic of Yugoslavia.

Public hearings were held on preliminary objections between 29 April and 3 May 1996. By a Judgment of 11 July 1996, the Court dismissed the preliminary objections and found that it had jurisdiction to adjudicate on the dispute on the basis of Article IX of the Genocide Convention and that the Application was admissible.

By an Order dated 23 July 1996, the President fixed 23 July 1997 as the time-limit for the filing of the Counter-Memorial of the Federal Republic of Yugoslavia. The Counter-Memorial, which was filed on 22 July 1997, contained counter-claims. By a letter dated 28 July 1997, Bosnia and Herzegovina, invoking Article 80 of the Rules of Court of 14 April 1978, challenged the admissibility of the counter-claims. Bosnia and Herzegovina and the Federal Republic of Yugoslavia submitted written observations to the Court regarding the admissibility of the counter-claims on 10 October 1997 and 24 October 1997, respectively. By an Order dated 17 December 1997, the Court found that the counter-claims submitted by the Federal Republic of Yugoslavia were admissible as such and formed part of the current proceedings since they fulfilled the conditions set out in Article 80, paragraphs 1 and 2, of the Rules of Court as then in force. The Court further directed Bosnia and Herzegovina to submit a Reply and the Federal Republic of Yugoslavia to submit a Rejoinder relating to the claims of both Parties and fixed 23 January 1998 and 23 July 1998 as the respective time-limits for the filing of those pleadings.

By an Order dated 22 January 1998, the President, at the request of Bosnia and Herzegovina, extended the time-limit for the filing of the Reply of Bosnia and Herzegovina to 23 April 1998 and accordingly extended the time-limit for the filing of the Rejoinder of the Federal Republic of Yugoslavia to 22 January 1999. On 23 April 1998, within the time-limit thus extended, Bosnia and Herzegovina filed its Reply.

By an Order of 11 December 1998, at the request of the Federal Republic of Yugoslavia, the Court extended the time-limit for the filing of the Rejoinder of the Federal Republic of Yugoslavia to 22 February 1999. The Federal Republic of Yugoslavia filed its Rejoinder within the time-limit thus extended and the case became ready for hearing.

By a letter dated 9 June 1999, the then Chairman of the Presidency of Bosnia and Herzegovina, Mr. Zivko Radisić, informed the Court of the appointment of a Co-Agent, Mr. Svetozar Miletić. By a letter dated 10 June 1999, the thus appointed Co-Agent informed the Court that Bosnia and Herzegovina wished to discontinue the case. By a letter of 14 June 1999, the Agent of Bosnia and

Herzegovina asserted that the Presidency of Bosnia and Herzegovina had taken no action to appoint a new Co-Agent or to terminate the proceedings before the Court. By a letter of 15 June 1999, the Agent of the Federal Republic of Yugoslavia stated that his Government accepted the discontinuance of the proceedings. In numerous exchanges of letters during the period from 21 June 1999 to 6 October 2000, the Agent and the then Chairman of the Presidency of Bosnia and Herzegovina reiterated that no new Co-Agent had been named and that no decision to discontinue the case had been taken by the Presidency while the Agent of the Federal Republic of Yugoslavia maintained that the case had been discontinued.

By letters dated 16 October 2000 from the President of the Court and from the Registrar, the Parties were informed that, at its meeting of 10 October 2000, the Court, having examined all the correspondence received on this question, had found that Bosnia and Herzegovina had not demonstrated its will to withdraw the Application in an unequivocal manner. The Court had thus concluded that there had been no discontinuance of the case by Bosnia and Herzegovina. Consequently, in accordance with Article 54 of the Rules, the Court, after having consulted the Parties, would, at an appropriate time, fix a date for the opening of the oral proceedings.

By a letter dated 18 January 2001, the Minister for Foreign Affairs of the Federal Republic of Yugoslavia requested the Court to grant a stay of the proceedings or alternatively to postpone the opening of the oral proceedings for a period of 12 months due, *inter alia*, to the change of Government of the Federal Republic of Yugoslavia and the resulting fundamental change in the policies and international position of that State. By a letter dated 25 January 2001, the Agent of Bosnia and Herzegovina communicated the views of his Government on the request made by the Federal Republic of Yugoslavia.

By a letter dated 20 April 2001, the Agent of the Federal Republic of Yugoslavia informed the Court, *inter alia*, that his Government wished to withdraw the counter-claims submitted by the Federal Republic of Yugoslavia in its Counter-Memorial. On 24 April 2001, the Federal Republic of Yugoslavia filed in the Registry of the Court an Application instituting proceedings whereby, referring to Article 61 of the Statute, it requested the Court to revise the Judgment delivered on Preliminary Objections on 11 July 1996 (hereinafter referred to as “the Application for Revision case”). Under cover of a letter dated 4 May 2001, the Agent of the Federal Republic of Yugoslavia also submitted in the present case a document entitled “Initiative to the Court to Reconsider Ex Officio Jurisdiction over Yugoslavia”, accompanied by one volume of Annexes (hereinafter “the Initiative”), and requested the Court to suspend the proceedings on the merits. The Agent informed the Court that the Initiative was based on facts and arguments which were essentially identical to those submitted in the Federal Republic of Yugoslavia’s Application for Revision of the Judgment of 11 July 1996 since his Government believed that these were both appropriate procedural avenues. In the Initiative, the Federal Republic of Yugoslavia requested the Court to adjudge and declare that it had no jurisdiction *ratione personae* over it, arguing that it had not been a party to the Statute of the Court until its admission to the United Nations on 1 November 2000, that it had not been and still was not a contracting party to the Genocide Convention; it added moreover that its notification of accession to that Convention dated 8 March 2001 contained a reservation to Article IX thereof. The Federal Republic of Yugoslavia asked the Court to suspend the proceedings on the merits until a decision was rendered on the Initiative.

By a letter dated 12 July 2001 and received in the Registry on 15 August 2001, Bosnia and Herzegovina informed the Court that it had no objection to the withdrawal of the counter-claims by the Federal Republic of Yugoslavia and stated that it intended to submit observations regarding the Initiative. By Order dated 10 September 2001, the President of the Court placed on record the withdrawal by the Federal Republic of Yugoslavia of the counter-claims submitted in its Counter-Memorial. By letter dated 3 December 2001, Bosnia and Herzegovina provided the Court with its views regarding the Initiative.

In a Judgment of 3 February 2003 in the Application for Revision case, the Court found that the Federal Republic of Yugoslavia's Application for revision, under Article 61 of the Statute of the Court, of the Judgment of 11 July 1996 on Preliminary Objections was inadmissible.

By a letter dated 5 February 2003, the Federal Republic of Yugoslavia informed the Court that, following the adoption and promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the State had been changed from the "Federal Republic of Yugoslavia" to "Serbia and Montenegro". The title of the case was duly changed and the name "Serbia and Montenegro" was used thereafter for all official purposes of the Court.

By a letter of 17 February 2003, Bosnia and Herzegovina reaffirmed its position with respect to the Initiative, as stated in the letter of 3 December 2001. By letter dated 8 April 2003, Serbia and Montenegro submitted that, due to major new developments since the filing of the last written pleading, additional written pleadings were necessary in order to make the oral proceedings more effective and less time-consuming. On 24 April 2003, the President of the Court held a meeting with the Agents of the Parties to discuss questions of procedure including the Initiative submitted by Serbia and Montenegro and the filing of additional pleadings.

In a letter of 12 June 2003, the Registrar informed Serbia and Montenegro that the Court had decided that it could not accede to the Respondent's request that the proceedings be suspended until a decision were rendered on the jurisdictional issues raised in the Initiative; however, should it wish to do so, Serbia and Montenegro would be free to present further argument on jurisdictional questions during the oral proceedings on the merits. In further letters of the same date, the Parties were informed that the Court, having considered Serbia and Montenegro's request, had decided not to authorize the filing of further written pleadings in the case.

During an exchange of letters in October and November 2003, the Agents of the Parties made submissions as to the scheduling of the oral proceedings. Following a further exchange of letters between the Parties in March and April 2004, the President held a meeting with the Agents of the Parties on 25 June 2004, at which the Parties presented their views on, inter alia, the scheduling of the hearings and the calling of witnesses and experts.

By letters dated 26 October 2004, the Parties were informed that, after examining the list of cases before it ready for hearing and considering all the relevant circumstances, the Court had decided to fix Monday 27 February 2006 for the opening of the oral proceedings in the case.

On 14 March 2005, the President met with the Agents of the Parties in order to ascertain their views with regard to the organization of the oral proceedings. At this meeting, both Parties indicated that they intended to call witnesses and experts.

By letters dated 19 March 2005, the Registrar, referring to Articles 57 and 58 of the Rules of Court, requested the Parties to provide, by 9 September 2005, details of the witnesses, experts and witness-experts whom they intended to call and indications of the specific point or points to which the evidence of the witness, expert or witness-expert would be directed. In a letter of 8 September 2005, the Agent of Serbia and Montenegro transmitted to the Court a list of eight witnesses and two witness-experts whom his Government wished to call during the oral proceedings. In a further letter of the same date, the Agent of Serbia and Montenegro communicated a list of five witnesses whose attendance his Government requested the Court to arrange pursuant to Article 62, paragraph 2, of the Rules of Court. By a letter dated 9 September 2005, Bosnia and Herzegovina transmitted to the Court a list of three experts whom it wished to call at the hearings.

By letters of 15 November 2005, the Registrar informed the Parties, inter alia, that the Court had decided that it would hear the three experts and the ten witnesses and witness-experts that Bosnia and

Herzegovina and Serbia and Montenegro respectively wished to call and, moreover, that it had decided, at that stage, not to arrange for the attendance, pursuant to Article 62, paragraph 2, of the Rules of Court, of the five witnesses proposed by Serbia and Montenegro. However, the Court reserved the right to exercise subsequently, if necessary, its powers under that provision to call persons of its choosing on its own initiative.

By letters dated 28 December 2005, 19 January 2006 and 24 January 2006, the Deputy Agent of Bosnia and Herzegovina, on behalf of his Government, requested that the Court call upon Serbia and Montenegro, under Article 49 of the Statute and Article 62, paragraph 1, of the Rules of Court, to produce a certain number of documents. In letters dated 16 January and 31 January 2006, Serbia and Montenegro informed the Court of its views on this request. By letters dated 2 February 2006, the Registrar informed the Parties that the Court had decided, at this stage of the proceedings, not to call upon Serbia and Montenegro to produce the documents in question. However, the Court reserved the right to exercise subsequently, if necessary, its powers under Article 49 of the Statute and Article 62, paragraph 1, of the Rules of Court, to request, proprio motu, the production by Serbia and Montenegro of the documents in question.

By a letter dated 16 January 2006, the Deputy Agent of Bosnia and Herzegovina transmitted to the Registry copies of new documents that Bosnia and Herzegovina wished to produce pursuant to Article 56 of the Rules of Court. Under cover of the same letter and of a letter dated 23 January 2006, Bosnia and Herzegovina also transmitted to the Registry copies of video material, extracts of which it intended to present at the oral proceedings. By letters of 2 February 2006, the Registrar informed the Parties that, in view of the fact that no objections had been raised by Serbia and Montenegro, the Court had decided to authorize the production of the new documents by Bosnia and Herzegovina pursuant to Article 56 of the Rules of Court and that it had further decided that Bosnia and Herzegovina could show extracts of the video material at the hearings.

Under cover of a letter dated 18 January 2006, Serbia and Montenegro provided the Registry with copies of new documents which his Government wished to produce pursuant to Article 56 of the Rules of Court. In a letter dated 2 February 2006, the Registrar informed the Parties that, in view of the fact that no objection had been raised by Bosnia and Herzegovina, the Court had decided to authorize the production of the new documents by Serbia and Montenegro.

By a letter dated 13 February 2006, the Agent of Serbia and Montenegro informed the Court that his Government had decided not to call two of the witnesses and witness-experts included in the list transmitted to the Court on 8 September 2005 and that the order in which the remaining witnesses and witness-expert would be heard had been modified.

---

Verbatim records of the hearings will be published daily on the Court's website ([www.icj-cij.org](http://www.icj-cij.org); see under "Docket", click on the name of the case and then on "Oral pleadings"), with translations to follow as soon as practicable thereafter.

---

Information Department:  
Mrs. Laurence Blairon, Head of the Department (+ 31 70 302 23 36)  
Messrs. Boris Heim and Maxime Schoupe, Information Officers (+ 31 70 302 23 37)  
E-mail address: [information@icj-cij.org](mailto:information@icj-cij.org)