

SERBIA AND MONTENEGRO
MINISTRY OF FOREIGN AFFAIRS

His Excellency Philippe Couvreur
Registrar
International Court of Justice
Peace Palace
2517 KJ The Hague
The Netherlands

Sir,

I have the honour to refer to the cases concerning Legality of Use of Force (Yugoslavia v. Belgium); (Yugoslavia v. Canada); (Yugoslavia v. France); (Yugoslavia v. Germany); (Yugoslavia v. Italy); (Yugoslavia v. Netherlands); (Yugoslavia v. Portugal); and (Yugoslavia v. United Kingdom). On 18 December 2002 the Federal Republic of Yugoslavia (FRY) submitted Written Observations and submissions with respect to preliminary objections made by Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal and the United Kingdom. It is noted that Belgium, Canada, Italy, The Netherlands, Portugal and the United Kingdom sent comments on these Written Observations, outside the procedural framework set by the Statute and by the Rules of Court. (Belgium by a letter dated 16 January 2003; Canada by a letter dated 14 January 2003; Italy by a letter dated 17 January 2003; The Netherlands by a letter dated 16 January 2003; Portugal by a letter dated 16 January 2003; and the United Kingdom by a letter dated 17 January 2003.)

1 

With regard to the comments submitted, the Government of Serbia and Montenegro would like to state the following:

(1) Serbia and Montenegro submits that in its opinion there are newly discovered facts which are relevant in all cases in which Serbia and Montenegro participates before this Court. Consistent with its other submissions since the new Government of the FRY took office in the Fall of 2000, the FRY brought to the attention of the Court these facts in its Written Observations of 18 December. In particular, the FRY maintained – and maintains – that before 1 November 2000 it was not a member of the UN and it was not a party to the Statute. The FRY also maintained – and maintains – that it was not bound by the Genocide Convention until it acceded to that Convention in March 2001. The comments have taken notice of this position.

(2) Some of the comments also state that the Written Observations of 18 December 2002 represent a notice of discontinuance of the proceedings within the meaning of Article 89 of the Rules of Court. Serbia and Montenegro stresses that the Written Observations of 18 December 2002 do not represent such a notice of discontinuance. In its Submissions of 18 December 2002 the Federal Republic of Yugoslavia specifically requested the Court to decide on its jurisdiction (considering the pleadings formulated in the Written Observations) rather than to discontinue the proceedings in accordance with Article 89 of the Rules of the Court.

(3) Serbia and Montenegro is respectfully asking the Court to accord to the present comments of Serbia and Montenegro the same treatment as the one accorded to the comments submitted by Belgium, Canada, Italy, The Netherlands, Portugal, and the United Kingdom.

28 February 2003


Professor Tibor Varady

Agent of Serbia and Montenegro