



American Model United Nations International

THE INTERNATIONAL COURT OF JUSTICE

November 21, 2004

Croatia v. Serbia and Montenegro

PRESENT: President: Goodwin, Vice President: Sahai, Justices: Cottingham, Filippova, Gillam, Morozink, Schroeder, Simpson, Essenberg, Davis, Birach, Rahmani.

*To Court,
composed as above,
delivers the following Judgment:*

1. Jurisdiction is the first issue addressed by this Court. Serbia and Montenegro maintains that the ICJ does not have jurisdiction according to the Declaration on Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence which states that “all states shall respect the right of self-determination and independence of peoples...to be freely exercised without any foreign pressure and with absolute respect for human rights and fundamental freedoms.” Serbia and Montenegro further maintains that because the alleged crime occurred prior to their recognition of Croatia as a sovereign state, this case does not fall under the jurisdiction of this Court and should be viewed as an internal conflict rather than an international one. The Republic of Croatia asserts in their Memorial that Croatia was recognized by the European Community and the United States as a sovereign state on April 7 1992 and received full membership into the United Nations on May 22, 1992.
2. Republic of Croatia seeks the Court to declare Serbia and Montenegro in breach of legal obligation to the Republic of Croatia and its people under Article II and III of The Convention on the Prevention and Punishment of the Crime of Genocide. Serbia and Montenegro claim that in 1992 they withdrew their support in the form of arms and other resources for Croatian Serbs. Croatia asserts that the support continued to come from Serbia and Montenegro after 1992.
3. Serbia and Montenegro contends that there was no act of Genocide committed on their part because there was no formal connection between the Government and the Croatian Serb minority after 1992, when the ICJ would have gained jurisdiction. Croatia asserts that the Federal Republic of Yugoslavia (presently Serbia and Montenegro) repeatedly violated the Convention on the Prevention and Punishment of the Crime of Genocide by supplying arms to Croatian Serb minority.
4. The Republic of Croatia seeks reparations for damages caused by violation of the Convention on the Prevention and Punishment of the Crime of Genocide. According to Croatia, the damages include damages to persons, property, economy, and environment. Serbia and Montenegro deny any and all responsibility for the alleged damages.

THE COURT

Unanimously

Finds that the ICJ does have jurisdiction in the case of Croatia v. Serbia and Montenegro after May 22nd, 1992, the date Croatia became a member state of the United Nations. At this time Serbia and Montenegro and Croatia were both sovereign member states. In article 36 of the Statute of the International Court of Justice international conflicts between two states may be mediated by the court.

The Court

Unanimously

Finds a direct correlation between the government of Serbia and Montenegro and the JNA, enumerated in GA RES 49/43 (1995) operative clause three which requests, “The Federal Republic of Yugoslavia to cease immediately any military and logistic support to the authorities in the Serbian controlled parts of Croatia.” This indicates that the government of Serbia and Montenegro had continued to give support to the rebel forces after May 22nd, 1992.

The Court

By 8 votes to 6

Accepts the definition of genocide set forth by the convention on the Prevention and Punishment of the Crime of Genocide as enumerated in articles II and III.

The Court

By 8 votes to 6

Accepts the findings referenced in the perambulatory clauses of GA RES/47/121 of the report of the Special Rapporteur of the Commission on Human Rights in the Territory of the former Yugoslavia, dated November 6th, 1992, which states that “ethnic cleansing did not appear to be the consequence of the war, but rather its goal.” As well as the findings that, “ ‘ethnic cleansing’...is a form of genocide.”

The Court

By 8 votes to 6

Finds for the above reasons, Serbia and Montenegro have committed genocide.

The Court

By 12 votes to 2

Finds Serbia and Montenegro are responsible to pay for reparations.