



**HANDBOOK FOR JUDGES OF THE
INTERNATIONAL COURT OF JUSTICE
ITAMMUN 2007**

President: Felipe García Landa E.

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Registrar: Mariana Courtney Reynoso

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*Included within are the Application Instituting Proceedings (Croatia v. Yugoslavia) and important dates which all Justices must duly note and heed.

International Court of Justice (ICJ)

Handbook

Some conflicts that marked the XXth century remain in our conscience, not only because of their brutality, but because of the latent consequences they have had for peace, stability, the Rule of Law and international security. The importance and duty of an international court stems from its main objectives, which do not end with the declaration of responsibility but include the restoration of the situation prior to the affectation of the people's way of life by means of a breach of international obligations. Only then can justice be achieved and future peace assured in lands once ravaged by war and man-made devastation. And this is why the Chair of the International Court of Justice (ICJ), marking the tenth anniversary of ITAMMUN, welcomes you this year to discuss an important historical case pending resolution. We invite you to use the best legal arguments and your persuasive skills to resolve the questions put forward by Croatia, which demands post-conflict reparations from Serbia and Montenegro.

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

Facts

On July 2nd 1999, the Republic of Croatia instituted proceedings before the ICJ against the Federal Republic of Yugoslavia for violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. These crimes are alleged to have happened between 1991 and 1995, after Croatia gained her independence from the Republic of Yugoslavia.

In 1953 the Second Republic of Yugoslavia was born. It was formed by the republics of Slovenia, Croatia, Bosnia and Herzegovina, Macedonia, Serbia, and Montenegro. It was led by Josip Broz "Tito". From that year until his death in 1980, Tito led the country to stability and relative peace. This era is considered by some to be the highlight of Yugoslavian history in the XXth century. The death of President Tito in 1980 marked the beginning of economic decline and political crisis. In 1988 Yugoslav president Slobodan Milosevic was elected. He strove to unite all Serbs in one state, "Greater Serbia", increasing underlying tensions of an ethnic and religious nature.

Since 1990, Croatia alongside Slovenia moved to secede. The Croatian parliament changed the status of Serbs in Croatia from "constituent nation" to "national minority", enraging the

Serb-Croats who accounted for nearly one-third of the population of the Croatian republic. In May 1991, a local plebiscite declared Croatia independent and it gained recognition from the United States and the European Union. Serbian-dissidents supported by Slobodan Milosevic rose against the seceding nation. It was the beginning of a conflict that would last four years, which would kill thousands and displace hundreds of thousands of Serbs, Croats, and Muslims of the region and involve the whole world in either diplomatic or military turmoil.

The year 1991 was a year full of hostilities: two devastating battles and three demoralizing operations; each destructive, none truly defeating. The cities of Vukovar and Dubrovnik were ravaged by the Serbs after sieges that lasted months. The figures of the exact amount of damage are still argued. Croatian Serbs declared a separate “Republic of Serbian Krajina” and by the year 1992, the Serb rebels controlled a large part of the newly formed Republic of Croatia.

The United Nations (UN) sponsored a cease-fire in January 1993, and created the United Nations Protection Force (UNPROFOR) who assigned “protected areas” in the Croatian territories with a Serbian majority: Eastern Slavonia, Western Slavonia and Krajina. The UNPROFOR mandate was created by Resolution 743 of the UN Security Council in February 1992. It was composed by nearly 39,000 personnel from 39 countries¹. The following year, the General Assembly passed resolutions 47/121 and 49/630 condemning the “ethnic cleansing” in areas under Serb control.

The Republic of Croatia met with the rebels to negotiate a peaceful settlement to the conflict. In 1995, following the failed negotiations, the Republic of Croatia liberated most of the remaining rebel-controlled areas through Operations Flash and Storm. In 1996, the Republic of Croatia and Federal Republic of Yugoslavia signed the Agreement for the Normalization of Relations. Subsequently, Croatia regained control of the remainder of its territory.

During the sieges, Croatia estimated: 20,000 dead, 55,000 injured and over 3,000 persons missing; 10% of the country’s housing capacity destroyed; cultural monuments, historical sites and Croatian catholic churches destroyed or damaged; 300,000 hectares of arable land unusable due to the planting of explosive devices of various kinds; and 25% of its total economic capacity damaged or destroyed.²

¹ See <http://www.un.org/documents/ga/res/47/a47r121.htm>.

² See http://www.icj-cij.org/icjwww/ipresscom/ipress2002/ipresscom2002-34_cry_20021120.htm.

Involvement of the International Court of Justice

On July 2nd 1999, the Republic of Croatia filed in the Application against the Government of the Federal Republic of Yugoslavia, now Serbia and Montenegro, arguing repeatedly violations of the Convention on the Prevention and Punishment of the Crime of Genocide (from now on, Genocide Convention) that took place between 1991 and 1995. Following Croatia's preliminary statement, the Federal Republic of Yugoslavia is liable for the 'ethnic cleansing' of Croatian citizens by "directing, encouraging and urging Croatian citizens of Serb ethnicity to evacuate the area in 1995", as well as "by directly controlling the activity of its armed forces, intelligence agents and various paramilitary detachments, on the territory of the Republic of Croatia, in the Knin region", which was declared by Serbian residents as the "Republic of Serbian Krajina" in 1990.

The estimation made by Croatia of the damages during the period of the conflict were of "20,000 dead, 55,000 wounded, and over 3,000 people still uncounted for," Croatia argues that this form of Genocide resulted not only in a large number of Croatians killed or displaced, but in extensive property destruction that requires reparation. According to the National Commission for the Registration and Assessment of War Damages, "590 towns and villages suffered damage, 35 were razed to the ground, with another 34 suffering significant damage". They also claim that "1,821 cultural monuments were destroyed or damaged, including about 651 in the area of Dubrovnik-Neretva County and about 356 in the area of Osijek-Baranja County".

The Republic of Croatia requires the ICJ to resolve Yugoslavia's responsibility for violating the Genocide Convention by declaring that Yugoslavia "has breached its legal obligations," and therefore has an obligation to pay Croatia "in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".³

The jurisdiction of this Court derives from Article IX of the Genocide Convention, which both parts ratified. This Article establishes that "disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the Convention, including those relating to the responsibility of a State for genocide... shall be submitted to the International Court of Justice at the request of any of the parties to the dispute".

³ International Court of Justice press release 2002/34, 19 November 2002.

Chronology

Events before the conflict

- **1946** The new constitution of Federal People's Republic of Yugoslavia established six Socialist Republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia. The federal capital was Belgrade. The Socialist Autonomous Province of Vojvodina and the Socialist Autonomous District of Kosovo were part of the Socialist Republic of Serbia.
- **1988** The Serbs assured control of government in the post-Tito Yugoslavia with the majority of the votes for Yugoslav presidency.
- **1989** Slobodan Milosevic rose to power in Serbia. Anti-bureaucratic revolution demonstrations brought pro-Milosevic governments to Vojvodina, Kosovo and Montenegro.
- **1990** Croatian Serbs started a rebellion against the newly elected Croatian government lead by Franjo Tudman.

Events during the conflict

- **April 1991** The Serbs within Croatia made several movements to secede from Croatia.
- **March 1991** Plitvice Lakes Incident took place. It was a clash between security forces of Croatia and armed Serb separatists which contributed to the worsening of ethnic tensions.
- **May 1991** Croatia held a referendum on secession from Yugoslavia (94.17% in favor).
- **June 1991** Croatia declares independence from Yugoslavia. One month later, Serbian forces held nearly one third of Croatia.
- **September 1991** The battle of Vukovar began. The Yugoslav People's Army sieged the Croatian city of Vukovar for 87 days with the assistance of Serbian paramilitary forces.
- **October 1991** The siege of Dubrovnik and the surrounding area started.
- **November 1991** The Vukovar massacre took place. Around 260 local Croats and other non-Serbs were murdered by members of Serb paramilitary units. The city was almost completely destroyed.
- **December 1991** The Serbian autonomous regions in Krajina and Western Slavonia officially declared themselves as the *Republic of Serbian Krajina*.
- **January 1992** Final UN-sponsored ceasefire took place. There were several smaller operations undertaken by Croatia in order to relieve the Croatian cities.
- **June 1992** The Croatian army attacked the Serbian Territorial Defense on the Miljevci Plateau near Drnis and the UNPROFOR.
- **February 1993** Operation Maslenica took place. It was an offensive that the Croatian Army conducted in Northwestern Dalmatia against Krajina forces.

- **October 1993** The UN Security Council affirmed for the first time that the United Nations Protected Areas (UNPAs) were an integral part of the Republic of Croatia.
- **March 1994** The Krajina authorities signed a ceasefire.
- **May 1995** Violence again exploded. Krajina lost the support of Belgrade, partly in response to international pressure. Operation Flash took place. It was a brief and successful offensive conducted by the Croatian Army, which removed Serb Krajina forces from the small pocket in Western Slavonia.
- **August 1995** Operation Storm took place. It was a large-scale military operation carried out by Croatia, in conjunction with the Army of the Republic of Bosnia and Herzegovina, to recapture areas of central Croatia held by Croatian Serb forces. After four days of fighting, with light military casualties on both sides, it ended in a decisive victory for the Croats.
- **October 1995** Local Serb authorities Veselin Šljivančanin, Mile Mrkšić and Miroslav Radić were indicted for their role in orchestrating the Vukovar massacre and faced trial at the International Criminal Tribunal for the Former Yugoslavia (ICTY).
- **December 1995** The war ended with the negotiation of the Dayton Agreement, signed in Paris.

Events after the war

- **August 1996** Croatia and Yugoslavia reached a deal with the Agreement for the Normalization of Relations. Subsequently, Croatia regained control of the remainder of its territory.
- **July 1999** Croatia presented its first written declaration against Yugoslavia before the International Court of Justice.
- **October 2000** Vojislav Koštunica became president of Yugoslavia, after Slobodan Milošević was voted out of office.
- **February 2003** Federal Republic of Yugoslavia became the State Union of Serbia and Montenegro.
- **March 11 2006** Death of Slobodan Milošević in the Hague prison took place.
- **June 3 2006** Montenegrins declared independence from the State Union with Serbia.

Main issues that must be resolved by this Court

- International responsibility of contractual States of the Genocide Convention
 - Existence and/or persistence of breach of responsibility
 - Ability and will to prevent acts of genocide by Serbia and Montenegro
 - Intent, or lack thereof, and role, or lack thereof, of Serbia and Montenegro in the carrying out of genocidal actions
- Damage reparation in case of finding Serbia and Montenegro responsible for violating the Genocide Convention
 - Nature and characteristics of reparations
 - Amount of reparations
 - Purpose of reparations
 - Medium of reparations
 - Destination of resources

Sources

- **Conventions and Treaties**
 - Convention on the Prevention and Punishment of the Crime of Genocide
 - United Nations Charter
- **International Court of Justice**
 - Application to Institute Proceedings (2 July 1999, attached)
 - Practice Directions of the Court
 - Press Release 2002/34 (19 November 2002)
 - Press Release 2000/21 (28 June 2000)
 - Press Release 99/41 (16 September 1999)
 - Press Release 99/38 (2 July 1999)
 - Rules and Statute of the Court
- **General Assembly Resolutions**
 - A/RES/47/121
 - A/RES/49/43
 - A/RES/49/630
- **Security Council Resolutions**
 - S/RES/743
- **Other Sources**
 - Blaskovich, Jerry (1997). *Anatomy Of Deceit, Realities, War In Croatia*, NY: Dunhill
 - Zimmermann, Warren, ed. (1999). *War in the Balkans: A Foreign Affairs Reader*, Council on Foreign Relations Press

15 April 2007

Time Limits

Rosalyn Higgins, Awn Shawkat Al-Khasawneh, Raymond Ranjeva, Shi Jiuyong, Abdul G. Koroma, Gonzalo Parra-Aranguren, Thomas Buergenthal, Hisashi Owada, Bruno Simma, Peter Tomka, Ronny Abraham, Kenneth Keith, Bernardo Sepúlveda Amor, Mohamed Bennouna, Leonid Skotnikov,

The International Court of Justice, composed as above, after deliberation,

Having regard to Article 48 of the Statute of the Court, and to Articles 31, 44, 45 and 48 of the Rules of the Court,

Having regard to the Application filed in the Registry of the Court on 2 July 1999, whereby the Republic of Croatia instituted proceedings against the Government of the Federal Republic of Yugoslavia, now Serbia and Montenegro, for violations of the Convention on the Prevention and Punishment of the Crime of Genocide arising from the conflict in which Croatia gained its independence, between 1991 and 1995,

Fixes the following time-limits for the filing of the written pleadings:

20 August 2007 for the Memorial of Croatia;

25 August 2007 for the Counter-Memorial of Serbia and Montenegro;

And reserves the subsequent procedure for further decision.

(signed) Felipe García Landa E.
President

(signed) Ramón Peña Franco
Vice-President

(signed) Mariana Courtney Reynoso
Registrar

INTERNATIONAL COURT OF JUSTICE

**APPLICATION
INSTITUTING PROCEEDINGS**

filed in the Registry of the Court
on 2 July 1999

**APPLICATION OF THE CONVENTION
ON THE PREVENTION AND PUNISHMENT
OF THE CRIME OF GENOCIDE**

(CROATIA *v.* YUGOSLAVIA)

APPLICATION INSTITUTING PROCEEDINGS

To the Registrar of the International Court of Justice, the undersigned being duly authorized by the Republic of Croatia, status as follows:

1. On behalf of the Republic of Croatia and in accordance with Article 40(1), of the Statute of the International Court of Justice and Article 28 of the Rules of Court, I respectfully submit this Application instituting proceedings in the name of the Republic of Croatia against the Government of the Federal Republic of Yugoslavia for violations of the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter called the "Genocide Convention"). The Court has jurisdiction pursuant to Article 36 (1) of its Statute and Article IX of the Genocide Convention.

Preliminary Statement

2. The Genocide Convention prohibits the destruction in whole or in part, of a national, ethnic, racial or religious group, including the elimination or displacement of members of that group from a particular territory. Between 1991 and 1995, the Federal Republic of Yugoslavia repeatedly violated the Genocide Convention. By directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of the Republic of Croatia, in the Knin region,⁴ eastern and western Slavonia, and Dalmatia, the Federal Republic of Yugoslavia is liable for the "ethnic cleansing" of Croatian citizens from these areas- a form of genocide which resulted in large numbers of Croatian citizens being displaced, killed, tortured, or illegally detained, as well as extensive property destruction- and is required to provide reparation for the resulting damages. In addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as the Republic of Croatia reasserted its legitimate governmental authority (and in the face of clear reassurance emanating from the highest level of the Croatian Government, including the "President of the Republic of Croatia, Dr. Franjo Tudjman, that the local Serbs had nothing to fear and should stay), the Federal Republic of Yugoslavia engaged in conduct amounting to a second round of "ethnic cleansing", in violation of the Genocide Convention.

⁴ At the instance and best of the Federal Republic of Yugoslavia, the Serb residents of this area declared the "Republic of Serbian Krajina" in December 1990. This illegal declaration was not recognized by the Republic of Croatia and was uniformly rejected by the international community. For ease of reference, the Republic of Croatia will hereinafter collectively refer to the areas of Knin, portions of Dalmatia, Lika, Kordun, and Banija as the "Knin region".

I. Statement of Facts

3. On 25 June 1991, based upon the result of a national plebiscite, the Croatian Sabor voted overwhelmingly (94.5 per cent) to declare Croatia's independence. Democracy had been restored officially to the Republic of Croatia on 30 May 1990, the date that the Sabor held its first session following the first free democratic, multiparty election after almost 50 years under Communist rule. On 22 December 1990, the Sabor adopted a new constitution.

4. On 15 January 1992, members of the European Community recognized the Republic of Croatia as a sovereign State, and the United States of America recognized Croatia on 7 April 1992. On 22 May 1992, Croatia was granted membership in the United Nations. Within a year, Croatia was recognized by 102 countries, 78 of which have established formal diplomatic relations with it.

5. Prior to its declaration of independence in 1991, the Croatian State had existed in one form or another for at least 1,000 years, dating back to the first Croatian king, Tomislav. Over the next 1,000 years, Croatia retained its legal status and autonomy within the framework of the Hungarian kingdom, and the Habsburg Monarchy. On the disintegration of Austria-Hungary in October 1918, a Croatian National Council took power in Zagreb and (without consulting the Croatian people) called for union with the Kingdom of Serbia and other South Slavic parts of Austria-Hungary. In December 1918, the so-called Kingdom of the Serbs, Croats and Slovenes was proclaimed in Belgrade under the Serb Karagiorgievic dynasty, without ratification by the Croatian parliament. In 1929, King Alexander Karagiorgievic reorganized the boundaries of governance and established a dictatorship, renaming the country Yugoslavia for the first time in history.

6. In 1943 the Communist-ed partisan forces proclaimed a new Yugoslavia at Jajce, in Bosnia, and with their victory in 1945, set up a federal State of six republics. By 1987-1988, the Yugoslav Federal Government, established under Marshal Josip Broz Tito, had begun to disintegrate. Serbian leaders effected changes in the Serbian constitution that gave the Socialist Republic of Serbia effective control of four of the eight votes in the collective Yugoslav Presidency. These changes altered fundamentally the *de facto* organization of Yugoslavia as defined by the 1974 Yugoslav Constitution.

7. On 28 February 1989, the Croatian Democratic Union was formed under the leadership of Dr. Franjo Tudjman, who would lead Croatia to restore its political independence as a sovereign State. Faced with the prospect of the imposition of Serb hegemony under Slobodan Milosevic (then President of Serbia), Croatia and Slovenia each declared their independence on 25 June 1991.

8. Previously, on 21 December 1990, Serbs living in the areas of Croatia bordering Bosnia and Herzegovina and Vojvodina illegally declared the establishment of the so-called "Republic of Serbian Krajina". This declaration was the culmination of over a year's worth of efforts by the Belgrade Government to subvert the lawful authority of the Republic of Croatia, seeking to overthrow its sovereignty and territorial integrity. Belgrade

used such means as the distribution of nationalistic propaganda, conducting demonstrations of its armed forces, putting these units into the highest degree of combat readiness, and providing arms seized from territorial defense installations located in the Republic of Croatia to subvert Croatian democracy.

9. On 28 February 1991, rebel leaders in the Knin region announced their intention to unite with the Serbs in Serbia, Montenegro and Bosnia and Herzegovina. These actions were undertaken in order to realize the plan for creating a "Greater Serbia". This plan, although it was first conceived more than 150 years ago, has been consistently advocated by Mr. Slobodan Milosevic, now the President of the Federal Republic of Yugoslavia.

10. On 31 March 1991, Serb terrorists, armed with weapons supplied by the so-called "Yugoslav People's Army" ("JNA") blocked Croatian policemen in Plitvice and opened fire on them from ambush, killing Josip Jovic, the first Croatian policeman killed in the defense of the constitutional order of the Republic of Croatia. Within Croatia, paramilitary groups dominated by Serbs put themselves at the service of the so-called JNA and the Federal Republic of Yugoslavia. By the middle of 1991, 59 of the 102 municipalities within the Republic of Croatia were engulfed by the destruction. Forty of these had sustained considerable direct damage, and 19 others suffered limited destruction. The areas of eastern and central Slavonia, Banovina and Lika, and parts of Dalmatia sustained most of the damage.

11. The Federal Republic of Yugoslavia carried out the aggression against the Republic of Croatia by supporting, abetting, and directing the actions of various extremist rebel groups within Croatia to rebel against the lawful and democratically elected Government of the Republic of Croatia. The Federal Republic of Yugoslavia directed and supported these groups by providing military personnel, military supplies, and money to enable the insurgent Serb rebels to oppose the work of regular and legitimate Croatian police. By July 1991, the so-called JNA had used 19,029 artillery and rocket pieces, including 1,799 anti-tank guns, 4,200 recoilless rifles, 6,400 mortars, and 2,000 anti-aircraft cannons against Croatia. The attacks on Croatia were carried out by approximately 100,000 members of the so-called JNA (soldiers, mercenaries, and members of paramilitary forces) directed by Belgrade. Equipment used by the so-called JNA against Croatia included approximately 1,000 tanks, 900 armored troop carriers, 250 war planes, 90 helicopters, and 200 armed war vessels of the so-called JNA navy.

12. In July 1991, there were already 30,000 registered displaced persons in Croatia. The long list of displaced persons started with the persecution of the Croats from Lika in the spring of 1991, and intensified in the summer with the persecution of the Croats from the territory of Banovina, Kordun, eastern Slavonia, western Slavonia, West Sirmium, Baranja, Dalmatian hinterland, Drnis, and Knin. The peak of the refugee crisis occurred in November 1991, when 600,000 displaced persons were registered in Croatia, including 15,000 survivors of the massacre in Vukovar. The atrocities inflicted by the Serbs on Vukovar's people were brutal, and the resulting humanitarian crisis among displaced persons was unprecedented. In fact, the city of Vukovar, including countless historic buildings, and cultural artifacts, was completely destroyed by the so-called JNA.

13. So far, in the period of time following 1995, Croatia has discovered and registered at least 120 mass graves, mostly in the eastern Slavonia, Banovina, Dalmatia, and Knin regions. To date, the exhumation process has registered 2,989 bodies in both mass and individual graves. For example, in Ovchara, near Vukovar, a mass grave was discovered, from which some 200 bodies were exhumed. These were the bodies of wounded persons and patients who had been taken from the Vukovar hospital. At the mass grave at the New Graveyard of Vukovar, 938 bodies were found, and in Bacin, 56 bodies, mostly of elderly victims, were discovered in a mass grave. In Sabranja, near Zadar, another mass grave was recently discovered to contain 27 bodies. Also, in Vila Gavrilovic, near Petrinja, a mass grave was found that contained 17 bodies.

14. Prior to a cease-fire on 2 January 1992, the so-called JNA and the rebel Serbs were able to seize control of about one-third of Croatia. This occupied area stretched from Prevlaka in the south to Baranja on the Hungarian border, and was controlled by officials of the Federal Republic of Yugoslavia. The Belgrade-backed Serbs occupied and established effective control over the eastern Slavonia region of Croatia.

15. The Federal Republic of Yugoslavia, in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against the Republic of Croatia directly, and by means of its agents and surrogates, asserted de facto control over these areas in Croatia, such that it is liable for violations of the Genocide Convention that occurred on the territory of the Republic of Croatia.

16. The occupied territory was critical to Croatia. It included the land access routes to Dalmatian coast tourist sites, most of Croatia's petroleum resources, and a section cutting the primary access route from Zagreb into Slavonia. Heavy and intensive Serb shelling attacks against coastal and inland targets, especially the ancient, walled city of Dubrovnik, killed hundreds of civilians, destroyed property and virtually eliminated the tourist trade in central and southern Dalmatia.

17. As a result of the aggression waged by the Federal Republic of Yugoslavia, its agents, officials, and surrogates, Croatia and its citizens suffered the following damages:

- In Croatia, there were 20,000 dead and 55,000 wounded, with over 3,000 people still unaccounted for.
- Out of the total number of victims, 303 children died, 35 children were taken prisoner and disappeared, and 1,276 children were wounded.
- 1,700 people were killed in Vukovar alone (1,100 of them were civilians), more than 4,000 people were wounded, between 3,000 and 5,000 taken prisoner, and 1,000 people are still unaccounted for.
- In 1992, the humanitarian crisis in Croatia was at its peak, with approximately 800,000 displaced persons and refugees, which constituted more than 15 per cent of the total population of Croatia.
- Several thousand Croat civilians were taken prisoner and forcibly transferred to Serbia and other areas of the Federal Republic of Yugoslavia. Of the 7,000 people later released, 60 per cent had spent time in prisons or detention facilities in Serbia.

- According to estimates by the National Commission for the Registration and Assessment of War Damages, 590 towns and villages suffered damage, 35 were razed to the ground, with another 34 suffering significant damage.
- 1,821 cultural monuments were destroyed or damaged, including about 651 in the area of Dubrovnik-Neretva County and about 356 in the area of Osijek-Baranja County.
- Three national parks, five natural parks, 19 special reservations, 10 parks, and 19 park cultural monuments were damaged.
- 323 historical sites and settlements were destroyed or damaged.
- 171,000 housing units (constituting approximately 10 per cent of the housing capacity of Croatia) were destroyed, often by arson.
- Approximately 450 Croatian Catholic churches were destroyed or severely damaged, with lesser damage to over 250 others. In addition, approximately 151 rectories, 31 monasteries, and 57 cemeteries were destroyed or severely damaged.
- 210 libraries were destroyed or damaged (from school libraries to such famous libraries as those in Dubrovnik).
- 22 journalists were killed, many of whom were trying to reveal the truth about the aggression against Croatia.
- Estimates indicate that upwards of 3 million various explosive devices were planted within Croatia, mostly anti-personnel and anti-tank devices. These mines are for the most part uncharted and block about 300,000 hectares of arable land.
- About 25 per cent of Croatia's total economic capacity, including such large facilities as the Adriatic Pipeline, was damaged or destroyed during 1991-1992. Approximately 10 per cent of Croatia's tourist facilities were damaged or destroyed by the FRY-backed forces and agents.

18. In January 1992, in Sarajevo, Croatia and the JNA signed a cease-fire brokered by Mr. Cyrus Vance, former Secretary of State of the United States of America and a special envoy of the United Nations Secretary-General, Mr. Boutros Boutros-Ghali. In February 1992, the United Nations Security Council passed a resolution announcing the deployment of a protective, peace-keeping mission (hereinafter "UNPROFOR") in Croatia. Pursuant to the plan, UNPROFOR was stationed in four different sectors, designated as United Nations Protected Areas (hereinafter "UNPA").

19. The intervention of United Nations forces in February 1992, while it ended the armed conflict within Croatia, froze a situation in which the aggressor retained control of the Croatian territory it had seized illegally. This situation violated international law and the United Nations Charter, and was unacceptable for Croatia. Virtually all Croats, other Croatian citizens, and member of ethnic minorities (including Hungarians, Slovaks, Czechs, Germans, Roma and others) had either been killed or driven from their homes in these areas in the very first instance of ethnic cleansing by Mr. Milosevic's Serbia. Such conduct of Serbian officials, backed by the Federal Republic of Yugoslavia, constitutes genocide, as was recognized by United Nations General Assembly resolution 47/121 (18 December 1992). Clearly, the conduct of the Federal Republic of Yugoslavia violated the Genocide Convention. In addition, the United Nations General Assembly declared illegal, null, and

void teh Federal Republic of Yugoslavia's "activities aimed at achieving the integration of the occupied territories of Croatia into the administrative, military, educational, transportation and communications systems" of the Federal Republic of Yugoslavia, called upon the Federal Republic of Yugoslavia to cease providing military and logistic support to the occupying Serbs, and specially and forcefully condemned the ethnic cleansing by the Serbs that had taken place in the UNPAs (A/Res/49/43, 9 December 1994).

20. The Republic of Croatia, from the very beginning of the Federal Republic of Yugoslavia's aggression in 1991, tried to negotiate a peaceful resolution to the situation, but was unsuccessful. In June 1995, in response to Serb violations of the 1992 cease-fire and the killing of Croatian civilians, Croatia launched "Operation Flash", swiftly liberating the Serb-occupied area of Wertern Slavonia, opening the main highway between Zagreb and Lipovac, and restoring law and order in the region.

21. In August 1995, upon the recommendation of the international community, the Croatian Government and the Serbs from the occupied areas met in Geneva to try to reach a settlement on the third stage of the peaceful reintegration of the occupied areas. The Serbian delegation turned down all Croatian proposals, insisting that the "Republic of Serbian Krajina" was a State that wanted to be united only with other Serb lands. It was evident that they wanted to secede from Croatia and become a parte of a Greater Serbia built around the Federal Republic of Yugoslavia. After all attempts to convince the Serbs to accept the settlement proposed by Croatia and supported by the international community failed, the Croatian army and the police launched "Operation Storm", which, in just 84 hours, restored legitimate Croatian govenmental authority, law, and order within the areas of Knin, Dalmatia, Lika, Kordun and Banija. This left only the areas os eastern Slavonia (including the town of Vukovar) and Baranja under illegal Serb control.

22. Immediately prior to the commencement of Operation Storm, Serb officials, backed by the Federal Republic of Yugoslavia, ordered, directed, incited, and encouraged Serbs in the Knin region to withdraw form the area, cynically professing their belief that the Serbs would not be safe after Croatia restored its authority over the area.

23. These claims directly contravened assureances coming from the highest levels of the Croatian government, including President Tudjman, that the Serb population was safe and that all civilians should remain in their homes while law and order in the area was restored. Indeed, the Croatian National Parliament, in the Charter on the Rights of the Serbs and Other Nationalities, emphasized that:

"the Republic of Croatia guarantees to the Serbs in Croatia and to all national minorities which live on its territory the respect of all human and civil rights, and especially the freedom of expression and fostering of national language and culture, as well as political organization. The Republic of Croatia protects the rights and interests of its citizens regardless of religion, ethnicity, or race... Serbs in Croatia and all the nationalities have the right to propotional participation in the local self-government bodies and respective bodies os state authority, as well as to the provision of economic and social development for the purpose of preservation of their identity and for the purpose of protection from any attempt of assimilation..."

These assurances notwithstanding, the Federal Republic of Yugoslavia, its officials, agents and surrogates, undertook a campaign to effect the displacement of a large portion of the ethnic Serb population from this region. Significantly, this behaviour by the authorities in Belgrade did not constitute an isolated action, but was part and parcel of a consistent pattern of conduct by the Milosevic Government, repeated in not just Croatia, but also in Bosnia and Herzegovina, and, most recently, in Kosovo.

24. In fact, this action is a deliberate and calculated programme designed by the Belgrade Government to clear an ethnic population, and constitutes “ethnic cleansing” and genocide. Milosevic’s purpose, both in Kosovo today and in Croatia in 1995, was to avoid any situation where Serbs would have enjoyed a normal and peaceful life in a multi-ethnic society, because this would have fundamentally undermined the “justification” for Belgrade’s plan to create a Greater Serbia. This pernicious doctrine is predicated upon, at best, the mistaken belief and, at worst, the cynical and self-serving assertion, that Serbs cannot enjoy security in any State where they are not the dominant community. This conduct by the Federal Republic of Yugoslavia-backed Serbian officials (which, in the Kosovo context has been colloquially referred to as “self-cleansing”) constitutes “ethnic cleansing” and genocide in violation of the Genocide Convention.

25. The actions taken by Croatia to restore order in the territories seized by the Belgrade-directed Serb rebels, coupled with joint Croat-Muslim offensives in Bosnia and Herzegovina, as well as NATO airstrikes against Bosnian Serb positions, paved the way for a diplomatic solution to the problems created by Serb aggression against Croatia and Bosnia and Herzegovina. In November 1995, an agreement was signed separately in Zagreb and in Erdut (eastern Slavonia) by the Croatian government and the Serbs from the remaining occupied areas, stipulating that western Srijem, eastern Slavonia and Baranja would be gradually and peacefully reintegrated with the rest of Croatia under the monitoring of the international community.

26. These successful actions against the Serbs set the stage for the Bosnian peace accord initialled in Dayton, Ohio (United States of America) on 21 November 1995, and formally signed in Paris on 14 December 1995.

27. Pursuant to the August 1996 Agreement on the Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, the two countries have been conducting negotiations for nearly three years on compensation for destroyed, damaged or missing property. However, these negotiations have been unsuccessful, because the Federal Republic of Yugoslavia has been acting in bad faith and has refused to provide compensation for the damage that it caused on the territory of the Republic of Croatia which the Federal Republic of Yugoslavia effectively controlled during the 1991-1995 time period.

II. Jurisdiction of the Court

28. The Court has jurisdiction in this case pursuant to Article 36 (1) of this Statute, which provides that the Court's jurisdiction "comprises ... all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force". Both the Republic of Croatia and the Federal Republic of Yugoslavia are successor States of the former Socialist Federal Republic of Yugoslavia signed the Genocide Convention on 11 December 1948, and deposited its instrument of ratification on 29 August 1950. Under the general principles and rules of international law, successor States continue to be bound by the treaty obligations of the predecessor State.

29. Article XI of the Genocide Convention provides as follows:

"Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those related to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

By committing the actions described in the "Statement of Facts" above, and many other that will be detailed in later submissions, the Republic of Croatia submits that the Federal Republic of Yugoslavia has violated its obligations under the Genocide Convention.

30. The conduct of the Federal Republic of Yugoslavia during the period referred to above demonstrates clearly that there is a dispute between the Republic of Croatia and the Federal Republic of Yugoslavia, and that this dispute unquestionably relates to the interpretation and application of the Genocide Convention. Therefore, based upon Article 36 (1) of the Court's Statute, and Article XI of the Genocide Convention, the Republic of Croatia submits that the Court has jurisdiction to hear its claims against the Federal Republic of Yugoslavia arising under the Genocide Convention.

III. The Claims of the Republic of Croatia

31. The Republic of Croatia asserts in this Application the commission of repeated and numerous violations by the Federal Republic of Yugoslavia, its officials, agents and surrogates, of the genocide Convention. The Genocide convention defines genocide as follows:

"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious groups, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;

- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.” (Art.II)

The Genocide Convention outlaws the following acts:

- “(a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.” (Art.III)

32. As indicated in the “Statement of Facts”, and as will be demonstrated in future submissions, the Republic of Croatia claims that the Federal Republic of Yugoslavia, its officials, agents and surrogates, have violated Articles II (a) – (d) and III (a) – (e) of the Genocide Convention with respect to the Republic of Croatia and its people. In particular, the Republic of Croatia will demonstrate that the Federal Republic of Yugoslavia violated the Genocide Convention by seizing control of the Knin region and eastern Slavonia from 1991 to 1995, shelling and attacking portions of Dalmatia, and driving Croat (and other non-Serb) citizens from these areas with the intent to “ethnically cleanse” these regions, and to unite them with the Federal Republic of Yugoslavia to form a “greater” Serbian State.

33. The Republic of Croatia will also demonstrate that the Federal Republic of Yugoslavia committed further violations of the Genocide Convention when, immediately prior to the commencement of Operation Storm, it directed, instigated and coerced the Serb population living in the Knin region to evacuate from the area, thus creating a second “ethnic cleansing” of the area.

34. The Federal Republic of Yugoslavia’s “abhorrent policy of ethnic cleansing” has, itself, specifically been recognized as genocide by the United Nations General Assembly (A/Res/47/121, 18 December 1992). As will be established in later submissions to the Court, in pursuit of this policy in the Republic of Croatia, the Federal Republic of Yugoslavia, its officials, agents and surrogates, engaged in killing members of the Croat and other ethnic communities; causing serious bodily or mental harm to the Croat and other ethnic communities; deliberately inflicted on the Croat and other ethnic communities conditions of life calculated to bring about their physical destruction in whole or in part; and in imposing measures intended to prevent births within the Croat and other ethnic communities. All of these actions were specifically and purposefully undertaken with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such.

35. Moreover, under Article IV of the Genocide Convention, individuals who commit genocide, or who commit any of the acts described in Article III, must be punished, regardless of their official or private status. In addition, under Article V, States parties must provide effective penalties for persons guilty of genocide, or any of the acts described in Article III. The Federal Republic of Yugoslavia has not punished individuals who committed acts of genocide, or other acts described in Article III, and it has not provided

for effective penalties for such persons. Indeed, it has on many occasions given refuge to such persons within its territory. The Federal Republic of Yugoslavia has, therefore, also violated its obligations under Article IV and Article V of the Genocide Convention.

IV. Judgment requested by the Republic of Croatia

36. While reserving the right to revise, supplement or amend this Application, and, subject to the presentation to the Court of the relevant evidence and legal arguments, Croatia request the Court to adjudge and declare as follows:

- (a) That the Federal Republic of Yugoslavia has breached its legal obligations toward the people and Republic of Croatia under Articles I, II (a), II (b), II (c), II (d), III (a), III (c), III (d), III (e), IV and V of the Genocide Convention;
- (b) That the Federal Republic of Yugoslavia has an obligation to pay to the Republic of Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. The Republic of Croatia reserves the right to introduce to the Court at a future date a precise evaluation of the damages caused by the Federal Republic of Yugoslavia.