

INTERNATIONAL COURT OF JUSTICE

**APPLICATION
INSTITUTING PROCEEDINGS**

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On 20 March 1993



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

(BOSNIA HERZEGOVINA vs. SERBIA AND MONTENEGRO)

*President
Vice-President*

*Andrea Martínez Rojas Morales
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APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

To His Excellency, the President, to the Judges of the International Court of Justice, the undersigned being duly authorized by the Republic of Bosnia and Herzegovina:

I have the honor to refer to Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948 (hereinafter referred to as the "Genocide Convention").¹ Under the jurisdiction thereby conferred upon the Court, and in accordance with Article 36 (1) , Article 40 (1) of the Statute of the Court and Article 38 of the Rules of Court, I hereby submit on behalf of the Republic of Bosnia and Herzegovina, an Application instituting proceedings against Yugoslavia (Serbia and Montenegro) for violating the Genocide Convention in the following case.

I. Jurisdiction of the Court

The International Court of Justice has jurisdiction to hear the claims of Bosnia and Herzegovina against Yugoslavia (Bosnia and Montenegro), in virtue of the following:

Article 36 (1) of the Statute of the Court provides that the Court's jurisdiction "comprises... all matters specially provided for... in treaties and conventions in force". As Members of the United Nations Organization, the Republic of Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) are parties to the Statute, which forms an integral part of the Charter.

Article IX of the Genocide Convention provides that "Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III², shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

The Republic of Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) are also Parties to the Genocide Convention, which has been continuously in force with respect to both Contracting Parties throughout the period of time relevant to this case. First of all, the former Yugoslavia signed the Genocide Convention on 11 December 1948, and deposited an instrument of ratification without reservation on *29 August 1950*. Secondly, Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) accepted this Convention.

Regarding Bosnia and Herzegovina, on 29 December 1992, His Excellency Muhamed Sacirbey, Ambassador and Permanent Representative of the Republic to the United Nations, transmitted a letter to the Secretary-General of the United Nations, His Excellency Dr. Boutros Boutros- Ghali, that enclosed the original of a **Notice of Succession** with respect to the Genocide Convention, dated 17 December 1992, which was executed by His Excellency Dr. Haris Silajdzic, Minister for Foreign Affairs of the Republic of Bosnia and Herzegovina. The United Nations Secretary-General is the depository for the Genocide Convention. In this Notice of Succession, H.E. Dr. Silajdzic declared " that the Government of the Republic of Bosnia and Herzegovina, having considered the Convention on the Prevention and Punishment of the Crime of Genocide, of December 9, 1948, to which the former Socialist Federal Republic of Yugoslavia was a party, wishes to succeed to the same and undertakes faithfully to perform and carry out all the stipulations therein contained with effect from March 6, 1992, the date on which the Republic of Bosnia and Herzegovina became independent".

This effective date for the Notice of Succession is in accordance with the normal rules of customary international law relating to State succession with respect to treaties. These rules have been codified in **Articles 17, 22, 23 and 34**, among

¹ See below section II Jurisdiction of the Court

² See section III Claims of Bosnia and Herzegovina

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others, of the **Vienna Convention on Succession of States in Respect of Treaties** of 23 August 1978. And the former Yugoslavia signed this Vienna Convention on 6 February 1979, and deposited an instrument of ratification for this Vienna Convention on 28 April 1980.

Regarding Yugoslavia (Serbia and Montenegro), **Article 3 of the United Nations Charter** provides that "The original Members of the United Nations shall be the States which, having participated in the United Nations Conference on International Organization at San Francisco... sign the present Charter and ratify it in accordance with Article 110." The former Yugoslavia took part in the San Francisco Conference and therefore became an original Member of the United Nations and a Party to its Charter.

On 27 April 1992, a joint session of the rump Parliamentary Assembly of the former Socialist Federal Republic of Yugoslavia, the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro, adopted a **declaration**. This declaration indicates that "The Federal Republic of Yugoslavia . . . shall strictly abide by all the commitments that the SFR of Yugoslavia assumed internationally."

This intention by Yugoslavia (Serbia and Montenegro) to honor the international treaties of the former Yugoslavia was also confirmed in an **official Note** dated 27 April 1992 from the *Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General*, in the following language: "Strictly respecting the continuity of the international personality of Yugoslavia, the Federal Republic of Yugoslavia shall continue to fulfill all the rights conferred to, and obligations assumed by, the Socialist Federal Republic of Yugoslavia in international relations, including its membership in all international organizations and participation in international treaties ratified or acceded to by Yugoslavia."

A **Letter** dated 29 September 1992 from the Under-Secretary-General addressed to the Permanent Representatives of Bosnia and Herzegovina and Croatia to the United Nations attempted to discuss the "practical consequences" of General Assembly **resolution 47/1** of 22 September 1992, stating that "the resolution neither terminates nor suspends Yugoslavia's *membership* in the Organization.... The resolution does not take away the right of Yugoslavia to participate in the work of organs other than Assembly bodies".

In light of these facts, and as will be more fully developed in subsequent submissions, it is clear that a dispute exists between the Republic of Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) "relating to the interpretation, application, or fulfillment of the present [Genocide] Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in article III", within the meaning of **Article IX of the Genocide Convention**.

II. Statement of Facts

Introduction:

The purpose of this statement is to frame the timeline of facts concerning this case. This timeline seeks to record the crime of genocide, as defined by the 1948 Genocide Committee, perpetrated by the people of Yugoslavia (Serbia and Montenegro) and its agents and saggrogates towards the people and State of Bosnia Herzegovina.

Time-line:

1990 Collapse of the League of Communists.

May 1990 Slovenia and Croatia held free elections. Non-communist governments were elected in both States. Both vowed to convert the former Yugoslavia into a confederation.

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December 1990 Elections in Bosnia and Herzegovina led to the victory of three ethnically based parties representing Serbs, Croats, and Muslims. These three parties formed a coalition government with the Party of Democratic Action leader, His Excellency Alija Izetbegovic, as head of the collective Republic Presidency.

November 1991 The Serbian Democratic Party declared that several Serbian so-called autonomous regions within Bosnia and Herzegovina would secede from the Republic if the Republic declared its independence from the former Yugoslavia.

December 1991 Bosnia and Herzegovina applied to the European Community (EC) for recognition as an independent State.

6 March 1992 The sovereign State of the Republic of Bosnia and Herzegovina proclaimed its independence.

4 April 1992 Serb militia forces acting at the behest of and in co-operation with the former Yugoslav People's Army (YPA), including its air forces, had launched military attacks throughout the Republic of Bosnia and Herzegovina.

6 April 1992 The European Community decided to recognize the Republic of Bosnia and Herzegovina. The attacks intensified after EC recognition.

7 April 1992 Serb militia forces, acting at the behest of and in co-operation with the former YPA, announced that they had somehow created the so-called "Serbian Republic of Bosnia and Herzegovina". These former YPA military and paramilitary forces and militias quickly seized about two-thirds of the territory of the Republic of Bosnia and Herzegovina. They rapidly conquered ethnically mixed areas and Muslim-majority areas in central and eastern Bosnia.

17 April 1992 Serbia and Montenegro form a new Federal Republic of Yugoslavia.

May 1992 In an unsuccessful attempt to head off United Nations economic sanctions against Yugoslavia (Serbia and Montenegro) for their support and direction of Serb military and paramilitary forces in Bosnia and Herzegovina, the former YPA announced that it was withdrawing from the Republic. Nevertheless, the former YPA also announced that the former YPA soldiers, who were born in Bosnia and Herzegovina (whom they estimated to be about 80 per cent), could stay in the Republic with the former YPA's weapons, equipment, and supplies.

16 May 1992 At least 83 Muslims were summarily executed by Serbian paramilitary units in the village of Zaklopaca, which had been an almost exclusively Muslim village.

22 May 1992 Croatia, Slovenia, and Bosnia and Herzegovina gained UN membership. That day Washington revoked landing rights for Yugoslav national airline planes and orders expulsion of Yugoslav military attachés to punish Serbia's president Slobodan Milosevic, who sent troops into Bosnia.

29 June 1992 The United Nations received permission from these warring forces to send a peacekeeping contingent from the United Nations force in Croatia to secure the Sarajevo airport, in order to open a humanitarian aid pipeline into the city. Yugoslavia siege and bombard Sarajevo, by means of military and paramilitary forces and militias and agents and surrogates, ruthlessly, brutally, callously, and inhumanely.

July 1992 The focus of international concern about the situation in Bosnia and Herzegovina soon expanded beyond Sarajevo, as a result of accumulating reports from the nearly 2 million Muslim and Croat refugees expelled from these Serb-held territories. Victims spoke of the use of intimidation and violence to induce them to leave their homes. Most appalling, however, were reports of Serb-run detention camps. Witnesses told of summary executions, gang rapes of female prisoners, beatings, torture and starvation of prisoner.

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7 August 1992 Bosnian diplomats released an 8 July memo from United Nations peacekeepers in Croatia, which stated that Serb militia forces in the Republic of Bosnia and Herzegovina had intensified so-called "ethnic cleansing" operations in May 1992.

18 December 1992 United Nations General Assembly through the **resolution 47/121** established "Respondent's "ethnic cleansing" against the Bosnian People ". . . is a form of genocide".

21 December 1992 Milosevic wins reelection despite widespread condemnation in the West.

1993 As tensions rose, conflict broke out between Muslims and Croats, culminating in the destruction of much of Mostar, including its Old Bridge. The bridge had graced the city since it was built by the Ottomans in the 16th century and was a symbol of Bosnia's cultural diversity. The conflict became extremely complex. Muslims and Serbs form an alliance against Croats in Herzegovina, rival Muslim forces fought each other in north-west Bosnia, Croats and Serbs fought against Muslims in central Bosnia. UN safe havens for Bosnian Muslim civilians were created, to include Sarajevo, Gorazde and Srebrenica.

20 March 1993 The International Court of Justice admitted the APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE presented by the people of Bosnia and Herzegovina.

III. The claims of Bosnia and Herzegovina

In submitting this dispute to the Court, Bosnia and Herzegovina claims as follows, under diverse international dispositions and principles:

Article I of the Genocide Convention provides that the Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law, which they undertake to prevent and to punish. Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro) has breached this solemn obligation. The Respondent has planned, prepared, conspired, promoted, encouraged, aided and abetted and committed genocide against the People and State of Bosnia and Herzegovina. It also has refused to prevent or to punish those who are responsible for such acts. By performing such unlawful and criminal activities, Yugoslavia (Serbia and Montenegro) has incurred an international legal responsibility and is bound to cease and desist from such activities immediately and to pay Bosnia and Herzegovina reparations for the damage and prejudice suffered.

Article II of the Genocide Convention defines the international crime of "genocide" as any act committed "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, 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."*

For the reasons indicated in the "Statement of Facts", and as will be demonstrated in future submissions, Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro), its public officials, agents and surrogates have expressly violated, and are currently violating and threaten to continue violating Article II, paragraphs (a), (b), (c) and (d), of the Genocide Convention with respect to the People and State of Bosnia and Herzegovina.

Article III of the Genocide Convention provides that the following genocidal acts shall likewise be all punishable: (a) *genocide;* (b) *conspiracy to commit genocide;* (c) *direct and public incitement to commit genocide;* (d) *attempt to commit genocide;* (e) *complicity in genocide.*

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As indicated in the above "Statement of Facts", as well as during the course of its subsequent submissions, Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro), its public officials, agents, and surrogates have committed numerous, gross, and consistent violations of Article III, paragraphs (a), (b), (c), (d) and (e), of the Genocide Convention with respect to the People and State of Bosnia and Herzegovina.

According to **Article IV of the Genocide Convention**, persons committing genocide or any genocidal acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials, or private individuals. As indicated above in the "Statement of Facts", as well as during the course of its subsequent submissions, Bosnia and Herzegovina claims that "constitutionally responsible rulers" and "public officials" of Yugoslavia (Serbia and Montenegro) have personally violated Article II and Article III, paragraphs (a), (b), (c), (d) and (e), of the Genocide Convention by themselves and also by means of agents and surrogates acting under their direct control or with their co-operation, support, encouragement or approval. Furthermore, Bosnia and Herzegovina also claims that certain "private individuals", acting under the control of or in co-operation with "constitutionally responsible rulers" or "public officials" of Yugoslavia (Serbia and Montenegro) have violated Article III, paragraphs (a), (b), (c), (d) and (e), of the Genocide Convention. Such behavior and acts create personal responsibility under international law for them as well as State responsibility for Yugoslavia (Serbia and Montenegro). Yet, so far, Yugoslavia (Serbia and Montenegro) has refused to punish them in breach of its own obligations under Article III and Article IV of the Genocide Convention.

According to **Article V of the Genocide Convention**, the Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the Convention and in particular to provide effective penalties for persons guilty of genocide or genocidal acts enumerated in Article III. So far, Yugoslavia (Serbia and Montenegro) has not provided for effective penalties for persons guilty of genocide or any of the other acts enumerated in Article III of the Genocide Convention and has thus violated its own obligations under Article V thereof.

Article VIII of the Genocide Convention provides that any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or genocidal acts. The Genocide Convention, then, expressly confers international legal competence upon all Organs of the United Nations Organization, and especially upon the International Court of Justice to take effective action to prevent and suppress all acts of genocide or genocidal acts, such as the ones that have been perpetrated by Yugoslavia (Serbia and Montenegro) and its agents and surrogates against the People and State of Bosnia and Herzegovina.

The Applicant most respectfully claims that the Court must act immediately and effectively to do whatever it can to prevent and suppress all acts of genocide and all other genocidal acts that have been perpetrated by Yugoslavia against the People and State of Bosnia and Herzegovina, as required by Article VIII of the Genocide Convention.

In particular, Bosnia and Herzegovina most respectfully claims that Genocide Convention Article VIII requires this Court to grant its Request for the Indication of *Provisional Measures of Protection*.

Bosnia and Herzegovina also claims that it has the inherent right under **Article I of the Genocide Convention** to defend itself and its People, and to seek and receive from the other Contracting Parties military weapons, equipment, supplies, troops and financing, against the acts of genocide and the other genocidal acts enumerated in Article III currently being perpetrated upon us by Yugoslavia (Serbia and Montenegro) and its agents and surrogates, given that such Article establishes that all Contracting Parties have an international legal obligation "to prevent" the commission of acts of

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genocide against the People and State of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

Bosnia and Herzegovina also claims that, as a Member of the United Nations Organization and a Party to its Charter, it possesses the inherent right of both individual and collective self-defense recognized by **Article 51 of the United Nations Charter** in order to defend itself and its People from the armed attacks, armed aggressions, and acts of genocide that have been and are currently being inflicted upon it and its People by Yugoslavia (Serbia and Montenegro) and its agents and surrogates.

Article 51, indeed, provides that "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security".

Additionally, Bosnia and Herzegovina also claims that Yugoslavia (Serbia and Montenegro) by itself and by means of its agents and surrogates has wantonly violated **United Nations Charter Article 2**, paragraphs 1, 2, 3 and 4, **and Article 33**, paragraph 1, which provide as follows:

"Article 2.

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

1. The Organization is based on the principle of the *sovereign equality* of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in *good faith* the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by *peaceful means* in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall *refrain* in their international relations *from the threat or use of force* against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations."

"Article 33.

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, *seek a solution by* negotiation, enquiry, mediation, conciliation, arbitration, *judicial settlement*, resort to regional agencies or arrangements, or other peaceful means of their own choice."

Bosnia and Herzegovina also claims that so far the Security Council and its member States have not yet taken effective measures to prevent or to punish or to suppress acts of genocide perpetrated by Yugoslavia (Serbia and Montenegro), it has the right under the Genocide Convention to seek and receive support from the Member States of the United Nations, including military weapons, equipment, supplies, troops, and financing in order to defend itself and its People.

In this regard, it is worth noting that on 25 September 1991, the **Security Council** adopted **resolution 713 (1991)**, at the express request of and with the permission by the representative of the former Yugoslavia. In that resolution, the Council decided to impose an arms embargo upon the former Yugoslavia until the "Security Council decides otherwise following consultation between the Secretary-General and the Government of Yugoslavia". It is important to take into account that the Security Council imposed the arms embargo upon the former Yugoslavia only at its express request and with its consent.

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Still the Republic of Bosnia and Herzegovina had not yet come into existence as an independent State until 6 March 1992. Thus, the Security Council's arms embargo upon the former Yugoslavia did not and could not by its own words apply to the Republic of Bosnia and Herzegovina. Furthermore, Bosnia and Herzegovina has never consented to or acquiesced in the extension of this arms embargo to itself. To the contrary, the Republic of Bosnia and Herzegovina claims that the extension of this arms embargo from the former Yugoslavia to itself would violate its inherent right of individual and collective self-defense as recognized by customary international law and United Nations Charter Article 51.

The **Security Council** reaffirmed this arms embargo against the former Yugoslavia in paragraph 5 of **resolution 724 (1991)** on 15 December 1991 and in paragraph 6 of **resolution 727 (1992)** of 8 January 1992. But for reasons already explained, this arms embargo against the former Yugoslavia did not and could not apply to the Republic of Bosnia and Herzegovina, which did not become an independent State until 6 March 1992.

On 22 May 1992, the **United Nations General Assembly** admitted the Republic of Bosnia and Herzegovina to Membership in **resolution 46/237**. Immediately thereafter, the Republic of Bosnia and Herzegovina was subject to all the responsibilities, privileges, duties, and rights of the **United Nations Charter**, including, and especially, **Article 51** thereof:

"Article 51

Nothing in the present Charter shall impair the *inherent right of individual or collective self-defense* if an armed attack occurs against a Member of the United Nations, *until the Security Council has taken measures necessary to maintain international peace and security*".

Therefore, none of these numerous Security Council resolutions imposing or reaffirming an arms embargo upon the former Yugoslavia under Chapter VII of the Charter can be properly interpreted to apply to the Republic of Bosnia and Herzegovina. To do otherwise would "impair the inherent right of individual or collective self-defense" of the Republic of Bosnia and Herzegovina, and thus violate United Nations Charter Article 51, and furthermore render these Security Council resolutions *ultra vires*.

Furthermore, **United Nations Charter Article 24**, paragraph 2, provides that even when it acts under Chapter VII of the Charter, the Security Council must "act in accordance with the Purposes and Principles of the United Nations" that are set forth in Articles 1 and 2 of the Charter.

In accordance, Bosnia and Herzegovina claims that the arms embargo imposed upon the former Yugoslavia by the Security Council could not apply to the Republic of Bosnia and Herzegovina at any time. Otherwise, the Security Council would not be acting "in accordance with the Purposes and Principles of the United Nations" and thus would be in breach of Charter Article 24 (2). Such an improper interpretation of resolution 713 (1991) and its successors would render resolution 713 (1991) *ultra vires* the Security Council under both Article 24 (2) and Article 51 of the Charter.

In order to avoid these results, Bosnia and Herzegovina claims that this Court must interpret Security Council resolution 713 (1991) and its successors to mean that there is not, has never been, and is still not as of today, a mandatory arms embargo applicable to Bosnia and Herzegovina under Chapter VII of the Charter. Indeed, no other organ of the United Nations but this Court can clarify this matter and thus vindicate the "inherent right" of Bosnia and Herzegovina under Article 51.

In addition, pursuant to the right of collective self-defense recognized by United Nations Charter Article 51 as well as to the holding of this Court in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* (Merits), *I.C.J. Reports 1986*, the Republic of Bosnia and Herzegovina has the right to ask other

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States to come to its defense against the armed attacks, armed aggressions and acts of genocide currently being perpetrated upon It and its People by Yugoslavia (Serbia and Montenegro) and its agents and surrogates. The same result would also flow from **Article I of the Genocide Convention**: "The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law *which they undertake to prevent and to punish*". Thus, all Parties to the Genocide Convention are obligated to prevent Respondent's acts of genocide and armed aggression even, if necessary, by means of military intervention at the request of Bosnia and Herzegovina.

Furthermore, many of the acts of genocide specified above also constitute or include within themselves war crimes under the laws of war and international humanitarian law. Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro) and its agents and surrogates have committed numerous violations and grave breaches of the four **Geneva Conventions** of 12 August 1949, **their Additional Protocol I** of 8 June 1977, the customary international laws of war including **the Hague Regulations on Land Warfare** of 1907, and fundamental principles and rules of international humanitarian law. And both Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) have continuously been Parties to the four Geneva Conventions and their two Additional Protocols at all times relevant to these proceedings.

Finally, many of the acts of genocide and genocidal acts specified above also constitute gross violations of the **Universal Declaration of Human Rights** of 10 December 1948. The Applicant would like to draw the Court's special attention to Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 thereof. Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro) and its agents and surrogates have sought to circumvent, negate, overturn and destroy the entirety of the Universal Declaration of Human Rights with respect to the citizens of Bosnia. Yet these fundamental human rights protected by the *Universal Declaration* are considered to be binding upon all States of the World Community as a master of customary international law and *jus cogens*.

In synthesis, Bosnia and Herzegovina claims that Yugoslavia (Serbia and Montenegro) is obliged to immediately cease and desist from committing any armed attack, armed aggression or any other act of aggression as defined by the United Nations General Assembly's Definition of Aggression, by itself or by means of its agents and surrogates, against the People and State of Bosnia and Herzegovina.

Also, Yugoslavia (Serbia and Montenegro) and its agents and surrogates, including their public officials and private individuals, are obligated under the Genocide Convention to immediately cease and desist from committing all acts of genocide and other prohibited acts specified in Articles II and III of the Genocide Convention against the People and State of Bosnia and Herzegovina; as well as to immediately cease and desist from committing any violations of the four Geneva Conventions of 1949 its Additional Protocol I of 1977, the Hague Regulations on Land Warfare of 1907, the Universal Declaration of Human Rights of 1948 United Nations Charter Articles I, 2, 33, 55 and 56, among others, as well as of many other international treaties and agreements and basic principles of customary international law, the laws of war, international humanitarian law, international criminal law, and principles of *jus cogens*, which are too numerous to list in this Application but will be developed in greater detail during the course of further submissions of Bosnia and Herzegovina in these proceedings.

Finally, Bosnia and Herzegovina claims that reparations must be paid by Yugoslavia (Serbia and Montenegro) to the Applicant for all the death, destruction, physical and mental injury, property damage and environmental harm that have been inflicted upon it and its People by the Respondent and its agents and surrogates in violation of all the sources of international law specified above and numerous other international treaties and agreements, principles of customary international law, the laws of war, international humanitarian law, international criminal law, and *jus cogens* that will be specified in further submissions by Bosnia and Herzegovina.

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IV. Judgment Requested

While reserving the right to revise, supplement or amend this Application, **Bosnia and Herzegovina requests the Court to adjudge and declare as follows:**

(a) That Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Article I, Article II, paragraphs (a), (b), (c) and (d), Article III, paragraphs (a), (b), (c), (d) and (e), Article IV and Article V of the Genocide Convention;

(b) That Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;

(c) That Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(d) That Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(e) That in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles I (3), 55 and 56 of the United Nations Charter;

(f) That Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Article 2, paragraphs 1, 2, 3 and 4, as well as of Article 33, paragraph 1, of the United Nations Charter;

(g) That Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) That Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

- Armed attacks against Bosnia and Herzegovina by air and land;
- Efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(i) That Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(j) That Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and

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Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4), of the United Nations Charter, as well as its obligations under general and customary international law;

(k) That under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend itself and its people under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(l) That under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defense, including by military means (weapons, equipment, supplies, troops, etc.);

(m) That Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defense of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(n) That all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defense of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(o) That Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of *ultra vires*;

(p) That pursuant to the right of collective self-defense recognized by United Nations Charter Article 51, all other States parties to the Charter have the right to come to the immediate defense of Bosnia and Herzegovina — at its request — including by means of immediately providing it with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) That Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

- From its systematic practice of so-called "ethnic cleansing" of the citizens and sovereign territory of Bosnia and Herzegovina;
- From the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;
- From the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;
- From the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- From the starvation of the civilian population in Bosnia and Herzegovina;
- From the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;
- From all use of force — whether direct or indirect, overt or covert — against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;

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- From all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
- From all support of any kind — including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support — to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina:

(r) That Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro).

V. Conclusion

Bosnia and Herzegovina hereby requests that the Court immediately indicate *interim measures of protection*, as set forth in a separate Request filed concurrently with this Application of today's date.

