



INTERNATIONAL COURT OF JUSTICE

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Communiqué
unofficial
for immediate release

No. 2002/25
9 October 2002

Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina)

The Court will hold public hearings from 4 to 7 November 2002

THE HAGUE, 9 October 2002. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, will hold public hearings in the case concerning the Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina), from Monday 4 to Thursday 7 November 2002 at the Peace Palace in The Hague, the seat of the Court.

As provided for in Article 61 of the Statute, these public hearings will be devoted to the question of the admissibility of the Application for revision filed by Yugoslavia.

History of the Proceedings

On 24 April 2001, the Federal Republic of Yugoslavia (FRY) filed an Application for revision of the Judgment delivered by the International Court of Justice on 11 July 1996 in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections. In that case, Bosnia and Herzegovina on 20 March 1993 instituted proceedings before the Court against Yugoslavia concerning a series of alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and concerning various questions which were, in the Applicant's view, linked to these violations. In its Application, Bosnia and Herzegovina relied upon Article IX of that convention as the basis for the jurisdiction of the Court. Article IX reads as follows: "Disputes between the Contracting Parties relating to the interpretation, application or fulfilment 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 III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute." Bosnia and Herzegovina subsequently invoked additional bases for jurisdiction. On 26 June 1995, Yugoslavia filed preliminary objections challenging the jurisdiction of the Court and the admissibility of the Application. In the above-mentioned Judgment of 11 July 1996 (see Press Release No. 96/25), the Court rejected the preliminary objections raised by Yugoslavia. It found that it had jurisdiction to deal with the case on the basis of Article IX of the Genocide Convention, dismissing the additional bases of jurisdiction invoked by Bosnia and Herzegovina. The Court further found that the Application filed by Bosnia and Herzegovina was admissible.

In its Application of 24 April 2001, Yugoslavia contends that a revision of the Judgment is necessary since it has become clear that it did not continue the legal personality of the Socialist Federal Republic of Yugoslavia, was not a Member of the United Nations before 1 November 2000 (the date on which Yugoslavia was admitted as a new Member of the United Nations), was not a State party to the Statute of the Court, and was also not a State party to the Genocide Convention, which is only open to United Nations Members or to non-member States to which an invitation to sign or accede has been addressed by the General Assembly.

Yugoslavia bases its Application for revision on Article 61 of the Statute of the Court, which provides in its first paragraph that “[a]n application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence”.

In its Application, Yugoslavia states that its admission to the United Nations as a new Member on 1 November 2000 constitutes “a new fact”, which was “clearly . . . unknown to both the Court and to [Yugoslavia] at the time when the Judgment of 11 July 1996 was given”. It adds that “[s]ince membership in the United Nations, combined with the status of a party to the Statute [of the Court] and to the Genocide Convention (including its Article IX), represent the only basis on which jurisdiction over the FRY was assumed, and could be assumed, the disappearance of this assumption and the proof of the disappearance of this assumption are clearly of such a nature [as] to be a decisive factor regarding jurisdiction over the FRY”.

Yugoslavia also asserts that no alternative basis for the Court’s jurisdiction existed. Yugoslavia further notes that, while on 12 March 2001 it submitted to the United Nations Secretary-General a notification seeking accession to the Genocide Convention, that instrument includes a reservation to Article IX, by which Yugoslavia declares that it does not consider itself bound by that Article, and, as a consequence, “before any dispute to which [it] is a party may be validly submitted to the jurisdiction of the . . . Court . . . under this Article, the specific and explicit consent of the FRY is required in each case”. Moreover, according to Yugoslavia, “[a]ccession has no retroactive effect. Even if it had a retroactive effect, this cannot possibly encompass the compromissory clause in Article IX of the Genocide Convention, because the FRY never accepted Article IX, and the FRY’s accession did not encompass Article IX.”

For all these reasons, Yugoslavia requests the Court to declare that “there is a new fact of such a character as to lay the case open to revision under Article 61 of the Statute of the Court”. It further asks the Court to suspend proceedings regarding the merits of the initial case until a decision on the Application for revision is rendered.

On 3 December 2001, within the time-limit fixed by the Court for this purpose, Bosnia and Herzegovina filed written observations on the admissibility of the Application for revision made by Yugoslavia. In its observations, Bosnia and Herzegovina contends inter alia that Article IX of the Genocide Convention “provides a sufficient ground for the jurisdiction of the Court in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide” and that “this conclusion does not depend on the question whether or not Yugoslavia was a Member of the United Nations and a Party to the Court’s Statute at the time of the Judgment” of 11 July 1996. Consequently, Bosnia and Herzegovina requests the Court “to adjudge and declare that the Application for Revision of the Judgment of 11 July 1996, submitted by . . . Yugoslavia . . . is not admissible”. These observations may be made public by a decision of the Court at the opening of the oral proceedings, after consultation of the Parties.

NOTE TO THE PRESS

1. The public hearings will be held in the Great Hall of Justice of the Peace Palace in The Hague, Netherlands. **Mobile telephones and beepers are allowed in the courtroom provided they are turned off or set on silent mode.** Any offending device will be temporarily retained.

2. Members of the Press will be entitled to attend the hearings on presentation of a press card. The tables reserved for them are situated on the far left of the public entrance of the courtroom.

3. **Photographs and TV shots may be taken in the Great Hall of Justice for a few minutes at the opening of the sittings.** The Court's proceedings will be displayed live and in full on a large TV screen in the Press Room, located on the ground floor of the Peace Palace (Room 5). There, TV crews may connect their recording devices directly onto the new video system of the Court, but advance notice should be given to the Information Department. Journalists wishing to make sound recordings of the proceedings may connect their recording devices directly onto the Court's own audio system, also in the Press Room.

4. Telephone calls (collect calls only) may be made from the phone located in the Press Room. Public telephones are located in the Post Office in the basement of the Peace Palace.

5. The verbatim records of the public hearings will be published daily on the Court's website (www.icj-cij.org) with an appropriate delay for on-line publication of translations.

6. Mr. Arthur Witteveen, First Secretary of the Court (Tel.: +31-70-302-2336), as well as Mrs. Laurence Blairon and Mr. Boris Heim, Information Officers (Tel.: +31-70-302-2337; e-mail address: information@icj-cij.org), are available to deal with any Press requests.
