



INTERNATIONAL COURT OF JUSTICE

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Press Release

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**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 finds that Yugoslavia's Application for revision is inadmissible

THE HAGUE, 3 February 2003. Today the International Court of Justice (ICJ), principal judicial organ of the United Nations, delivered its Judgment on the admissibility of the Application filed by Yugoslavia for the 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).

The Court, by ten votes to three, finds that "the Application submitted by the Federal Republic of Yugoslavia for revision, under Article 61 of the Statute of the Court, of the Judgment given by the Court on 11 July 1996 is inadmissible".

Reasoning of the Court

After recalling the Parties' arguments, the context of the case and the procedural history leading up to the Court's Judgment of 11 July 1996, the Court addresses the issue of whether the Application for revision submitted by the Federal Republic of Yugoslavia (FRY) is admissible under the terms of Article 61 of the Statute of the Court.

The Court begins by noting in particular that an application for revision of a judgment may be made only when it is "based upon the discovery" of some fact which, "when the judgment was given", was unknown. Such a fact must have been in existence prior to the Judgment and have been discovered subsequently. A fact which occurs several years after a judgment has been given is not a "new" fact within the meaning of Article 61; this remains the case irrespective of the legal consequences that such a fact may have.

The admission of the FRY to the United Nations occurred on 1 November 2000, well after the 1996 Judgment. The Court considers that that admission cannot be regarded as a new fact within the meaning of Article 61, capable of founding a request for revision of that Judgment.

In the final version of its argument, the FRY claimed that its admission to the United Nations and a letter of 8 December 2000 from the Organization's Legal Counsel simply "revealed" two facts which had existed in 1996 but had been unknown at the time: namely, that it was not then a party to the Statute of the Court and that it was not bound by the Genocide Convention. On this point, the Court considers that, in so arguing, the FRY does not rely on facts that existed in 1996 but that, in reality, it "bases its Application for revision on the legal consequences which it seeks to draw from facts subsequent to the Judgment which it is asking to have revised". The Court

concludes that those consequences, even supposing them to be established, cannot be regarded as facts within the meaning of Article 61. The FRY's argument cannot accordingly be upheld.

The Court observes that, at the time when the Judgment of 1996 was given, the situation obtaining was that created by General Assembly resolution 47/1. This resolution, adopted on 22 September 1992, stated inter alia:

“The General Assembly . . . considers that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations; and therefore decides that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly.”

In its present Judgment, the Court observes that

“the difficulties which arose regarding the FRY's status between the adoption of that resolution and its admission to the United Nations on 1 November 2000 resulted from the fact that, although the FRY's claim to continue the international legal personality of the Former Yugoslavia was not ‘generally accepted’ . . . , the precise consequences of this situation were determined on a case-by-case basis (for example, non-participation in the work of the General Assembly and ECOSOC and in the meetings of States parties to the International Covenant on Civil and Political Rights, etc.)”.

In its Judgment, the Court finds that “resolution 47/1 did not inter alia affect the FRY's right to appear before the Court or to be a party to a dispute before the Court under the conditions laid down by the Statute. Nor did it affect the position of the FRY in relation to the Genocide Convention”.

The Court further states that resolution 55/12 of 1 November 2000 (by which the General Assembly decided to admit the Federal Republic of Yugoslavia to membership in the United Nations) cannot have changed retroactively the sui generis position which the FRY found itself in vis-à-vis the United Nations over the period 1992 to 2000, or its position in relation to the Statute of the Court and the Genocide Convention.

From the foregoing, the Court concludes that it has not been established that the request of the FRY is based upon the discovery of “some fact” which was, “when the judgment was given, unknown to the Court and also to the party claiming revision”. The Court accordingly finds that one of the conditions for the admissibility of an application for revision prescribed by paragraph 1 of Article 61 of the Statute has not been satisfied.

Article 61 of the Statute lays down further requirements which an application for revision of a judgment must satisfy in order to be admissible. However, the Court recalls that “once it is established that the request for revision fails to meet one of the conditions for admissibility, the Court is not required to go further and investigate whether the other conditions are fulfilled”. The Court concludes that “the FRY's Application for revision must accordingly be rejected”.

Composition of the Court

The Court was composed as follows: President Guillaume; Vice-President Shi; Judges Ranjeva, Herczegh, Koroma, Vereshchetin, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal, Elaraby; Judges ad hoc Dimitrijević, Mahiou; Registrar Couvreur.

Judge Koroma appends a separate opinion to the Judgment of the Court; Judge Vereshchetin appends a dissenting opinion to the Judgment of the Court; Judge Rezek appends a declaration to the Judgment of the Court; Judge ad hoc Dimitrijević appends a dissenting opinion to the Judgment of the Court; Judge ad hoc Mahiou appends a separate opinion to the Judgment of the Court.

A summary of the Judgment is given in Press Release No. 2003/8bis, to which a summary of the declaration and opinions is annexed. The full text of the Judgment, declaration and opinions is available on the Court's website (www.icj-cij.org).

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