

Request

**for the indication of provisional measures
made 9 August 1993 by the Federal Republic of Yugoslavia
in the Case concerning the Application of the Convention on
the Prevention and Punishment of the Crime of Genocide,
instituted by the Application, dated 20 March 1993
of the so-called Republic of Bosnia and Herzegovina**

*To the President and Judges of the International
Court of Justice,*

The undersigned, being duly authorized by the Federal
Republic of Yugoslavia,

Has the honour to submit to the Court the following Request:

1. The so-called Republic of Bosnia and Herzegovina¹ filed
the Application, through its Agent Mr. Francis Boyle, Professor
International Law, in the Registry of the Court on 20 March
instituting proceedings against the Federal Republic of
Yugoslavia in respect of a dispute concerning the application of
the Convention on the Prevention and Punishment of the Crime of
Genocide, adopted by the General Assembly of the United Nations
on 9 December 1948 (hereinafter marked as "the Genocide
Convention"). At the same day, the Applicant State made the
Request for the indication of provisional measures. On 31 March

¹ Using the expression "the so called Republic of Bosnia and Herzegovina"
the FR of Yugoslavia wishes to indicate that its participation in the
proceedings before the Court cannot be understood as *de jure* recognition of
the Applicant State.

1993, the Respondent State made, also, the Request for the indication of provisional measures. Deciding both requests by Order, made on 8 April 1993, and considering its jurisdiction objected by the Respondent State, the Court has limited its anticipated jurisdiction, at this stage of the proceedings, to the Genocide Convention. (See para. 26, 34 and 35 of the Order.) The Court addressed two provisional measures to the Federal Republic of Yugoslavia and one provisional measure to both parties.

2. Considering the provisional measures requested by the Federal Republic of Yugoslavia, in para. 43 of the Order, dated 8 April 1993, the Court said:

"Whereas Yugoslavia in its written observations on the request for the indication of provisional measures 'requests the Court to establish the responsibility of the authorities' of Bosnia-Herzegovina for acts of genocide against the Serb people in Bosnia-Herzegovina, and indicates its intention to submit evidence to that effect; and whereas Yugoslavia claimed at the hearings that genocide and genocidal acts are being carried out against Serbs living in Bosnia-Herzegovina; whereas Bosnia-Herzegovina for its part contends however that there is no basis in fact or in law for the indication of provisional measures against it, there being no credible evidence that its Government has committed acts of genocide against anyone..."

3. Reserving all rights of objections to the jurisdiction of the Court and to the admissibility of the Application, the Federal Republic of Yugoslavia requests the Court, according to Article 41 of the Statute and Article 73, para. 1, and Article 75, para. 3 of the Rules of the Court, to indicate the following provisional measure:

The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within

its power to prevent commission of the crime of genocide against the Serb ethnic group.

4. Reasons of the Request vis-a-vis facts.

The Serb population on the territory of the former Yugoslav Republic of Bosnia and Herzegovina is again exposed to the terrible crime of genocide, just as 50 years ago. During World War Two the ethnic map of Bosnia and Herzegovina was changed by the crime of genocide committed against the Serb population. The crimes committed in Jasenovac are widely known. Several hundred thousand Serbs from Bosnia-Herzegovina and Croatia lost their lives as victims of genocide. The memories of the crime committed during World War Two have not faded away and the crime is being committed all over again and the perpetrators are of the same ethnic origin as those who committed it during World War Two. Although comprehensive evidence on the crime of genocide now being committed against the Serb people and the ensuant responsibility of the so-called Republic of Bosnia and Herzegovina is hard to provide in the circumstances, the intention of the submission is to present sufficient evidence for court to decide at this stage of the proceedings on the provisional measure requested. Such evidence is contained in the Reports of the FR Yugoslavia to the Commission of Experts, established by Resolution 780 (1992), adopted on 5 October 1992 by the Security Council of the United Nations, and in the Memorandum on War Crimes and the Crime of Genocide in Eastern Bosnia (Communes of Bratunac, Skelani and Srebrenica) committed against the Serb population from April 1992 to April 1993, prepared by the Yugoslav State Commission for War Crimes and

Genocide. Both documents are annexed to the Request.

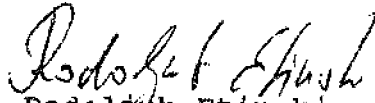
5. Reasons of the Request vis-a-vis International Law.

The so-called Republic of Bosnia and Herzegovina, as the alleged party of the Genocide Convention, has the obligation under its Article 1 to prevent the crime of genocide and to punish the perpetrators. However, it is apparent that the so-called Republic of Bosnia and Herzegovina has been, and continues to be, in breach of the said obligation. It has not prevented the commission of the crime of genocide on the territory under its control.

The organizers and perpetrators of the crime of genocide in Bosnia and Herzegovina are, among others the commanders of regular military and police forces of the Applicant State, members of the said forces and the other organs of the Applicant State. It is therefore to be concluded that the so-called Republic of Bosnia and Herzegovina is responsible for the failure of its organs to prevent the crime of genocide and for the acts of genocide committed by its organs.

5. Possible consequences if the provisional measure requested is not indicated. During the last few weeks, Serbs, and Croats in Central Bosnia are exposed to the acts of genocide committed by the Army of the so-called Republic of Bosnia and Herzegovina. In towns and villages under the control of the authorities of the so-called Republic of Bosnia and Herzegovina Serbs are kept incommunicado as ethnic hostages in genocidal conditions and are denied every possibility to leave. The Council of Serb Refugees from the Commune of Konjic sent the last appeal

to the International Committee of the Red Cross on 28 July 1993 calling for the release of 170 Serbs, kept as ethnic hostages in the village of Brdjani in the commune of Konjic. It is said in the appeal that 50 of them are aged 7 or under, living their last days, as they received no aid since the beginning of the war. If the so-called Republic of Bosnia and Herzegovina fails to take all necessary measures to prevent the continued commission of the crime of genocide, many more Serbs will lose their lives.


Rodoljub Etinski

Agent of the FR of Yugoslavia