



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Legality of Use of Force

**(Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada);
(Serbia and Montenegro v. France); (Serbia and Montenegro v. Germany);
(Serbia and Montenegro v. Italy); (Serbia and Montenegro v. Netherlands);
(Serbia and Montenegro v. Portugal); and (Serbia and Montenegro v. United Kingdom)**

Preliminary Objections

Conclusion of the public hearings; Court ready to begin its deliberation

THE HAGUE, 3 May 2004. The public hearings before the International Court of Justice (ICJ) on the Preliminary Objections raised by the Respondent States in the eight cases concerning Legality of Use of Force: (Serbia and Montenegro v. Belgium), (Serbia and Montenegro v. Canada), (Serbia and Montenegro v. France), (Serbia and Montenegro v. Germany), (Serbia and Montenegro v. Italy), (Serbia and Montenegro v. Netherlands), (Serbia and Montenegro v. Portugal) and (Serbia and Montenegro v. United Kingdom) were concluded on Friday 23 April 2004. The Court will now start its deliberation.

At the hearings, which opened on 19 April 2004, the delegation of Serbia and Montenegro was led by Mr. Tibor Varady, Chief Legal Adviser at the Ministry of Foreign Affairs of Serbia and Montenegro, as Agent. The delegations of Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal and the United Kingdom were led, respectively, by Mr. Jan Devadder, Director-General, Legal Matters, Belgian Ministry of Foreign Affairs; Ms Colleen Swords, Legal Adviser to the Canadian Department of Foreign Affairs; Mr. Ronny Abraham, Director of Legal Affairs, French Ministry of Foreign Affairs; Mr. Thomas Läufer, Director General for Legal Affairs and Legal Adviser, German Federal Foreign Office, and H.E. Mr. Edmund Duckwitz, Ambassador of Germany to the Netherlands; Mr. Ivo Braguglia, Head of the Diplomatic Legal and Treaties Department, Italian Ministry of Foreign Affairs; Mr. J. G. Lammers, Legal Adviser of the Dutch Ministry of Foreign Affairs; Mr. Luís Serradas Tavares, Director of the Department of Legal Affairs, Portuguese Ministry of Foreign Affairs; and Sir Michael Wood, K.C.M.G., Legal Adviser, Foreign and Commonwealth Office, as Agents.

The Court's Judgment in each of the eight cases will be delivered at a public sitting, the date of which will be announced in due course.

Final submissions of the Parties

At the conclusion of the oral proceedings the Parties presented the following final submissions to the Court.

For Belgium:

“In the case concerning the Legality of Use of Force (Serbia and Montenegro v. Belgium), for the reasons set out in the Preliminary Objections of Belgium dated 5 July 2000, and also for the reasons set out during the oral submissions on 19 and 22 April 2004, Belgium requests the Court to:

- (a) remove the case brought by Serbia and Montenegro against Belgium from the List;
- (b) in the alternative, to rule that the Court lacks jurisdiction in the case brought by Serbia and Montenegro against Belgium and/or that the case brought by Serbia and Montenegro against Belgium is inadmissible.”

For Canada:

“The Government of Canada requests the Court to adjudge and declare that the Court lacks jurisdiction because the Applicant has abandoned all the grounds of jurisdiction originally specified in its Application pursuant to Article 38, paragraph 2, of the Rules and has identified no alternative grounds of jurisdiction.

In the alternative, the Government of Canada requests the Court to adjudge and declare that:

- the Court lacks jurisdiction over the proceedings brought by the Applicant against Canada on 29 April 1999, on the basis of the purported declaration of 25 April 1999;
- the Court also lacks jurisdiction on the basis of Article IX of the Genocide Convention;
- the new claims respecting the period beginning 10 June 1999 are inadmissible because they would transform the subject of the dispute originally brought before the Court; and,
- the claims in their entirety are inadmissible because the subject matter of the case requires the presence of essential third parties that are not before the Court.”

For France:

“For the reasons it has set out orally and in its written pleadings, the French Republic requests the International Court of Justice to:

- principally, remove the case from the List;
- in the alternative, to decide that it lacks jurisdiction to rule on the Application filed by the Federal Republic of Yugoslavia against France;
- and, in the further alternative, to decide that the Application is inadmissible.”

For Germany:

“Germany requests the Court to dismiss the Application for lack of jurisdiction and, additionally, as being inadmissible on the grounds it has stated in its Preliminary Objections and during its oral pleadings.”

For Italy:

“For the reasons set out in its Preliminary Objections and oral statements, the Italian Government submits as follows:

May it please the Court to adjudge and declare,

Principally, that:

I. No decision is called for on the Application filed in the Registry of the Court on 29 April 1999 by Serbia and Montenegro against the Italian Republic for “violation of the obligation not to use force”, as supplemented by the Memorial filed on 5 January 2000, inasmuch as there is no longer any dispute between Serbia and Montenegro and the Italian Republic or as the subject-matter of the dispute has disappeared.

In the alternative, that:

- II. The Court lacks jurisdiction ratione personarum to decide the present case, since Serbia and Montenegro was not a party to the Statute when the Application was filed and also does not consider itself a party to a “treaty in force” such as would confer jurisdiction on the Court, in accordance with Article 35, paragraph 2, of the Statute;
- III. The Court lacks jurisdiction ratione materiae to decide the present case, since Serbia and Montenegro does not regard itself as bound by Article IX of the Genocide Convention, to which it made a reservation upon giving notice of accession in March 2001 and since, in any event, the dispute arising from the terms of the Application instituting proceedings, as supplemented by the Memorial, is not a dispute relating to “the interpretation, application or fulfilment” of the Genocide Convention, as provided in Article IX;
- IV. Serbia and Montenegro’s Application, as supplemented by the Memorial, is inadmissible in its entirety, inasmuch as Serbia and Montenegro seeks thereby to obtain from the Court a decision regarding the legality of action undertaken by subjects of international law not present in the proceedings or not all so present;
- V. Serbia and Montenegro’s Application is inadmissible with respect to the eleventh submission, mentioned for the first time in the Memorial, inasmuch as Serbia and Montenegro seeks thereby to introduce a dispute altogether different from the original dispute deriving from the Application.”

For the Netherlands:

“May it please the Court to adjudge and declare that

- The Court has no jurisdiction or should decline to exercise jurisdiction as the parties in fact agree that the Court has no jurisdiction or as there is no longer a dispute between the parties on the jurisdiction of the Court

Alternatively,

- Serbia and Montenegro is not entitled to appear before the Court;
- The Court has no jurisdiction over the claims brought against the Netherlands by Serbia and Montenegro; and/or
- The claims brought against the Netherlands by the Serbia and Montenegro are inadmissible”

For Portugal:

“For the reasons given in the oral statements presented on behalf of Portugal during the present hearings and in the Preliminary Objections of 5 July 2000, the final submissions of the Portuguese Republic are as follows:

May it please the Court to adjudge and declare that

- (i) The Court is not called upon to give a decision on the claims of Serbia and Montenegro

Alternatively

- (ii) The Court lacks jurisdiction, either

(a) under Article 36, paragraph 2, of the Statute;

(b) under Article IX of the Genocide Convention;

and

The claims are inadmissible.”

For the United Kingdom:

“For the reasons given in our written Preliminary Objections and at the oral hearing, the United Kingdom requests the Court:

— to remove the case from its List,

or, in the alternative,

— to adjudge and declare that:

it lacks jurisdiction over the claims brought against the United Kingdom by Serbia and Montenegro

and/or

the claims brought against the United Kingdom by Serbia and Montenegro are inadmissible.”

For Serbia and Montenegro:

“For the reasons given in its pleadings and in particular in its Written Observations, subsequent correspondence with the Court and at the oral hearing, Serbia and Montenegro requests the Court

— to adjudge and declare on its jurisdiction ratione personae the present cases;

— to dismiss the remaining preliminary objections of the respondent States, and to order proceedings on the merits if it finds it has jurisdiction ratione personae.”

NOTE FOR THE PRESS

The full transcripts of the hearings of 19 to 23 April 2004 can be found on the Court's website (www.icj-cij.org) under "Docket". Click on the hyperlinks bearing the name of the cases.

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