

INTERNATIONAL COURT OF JUSTICE

APPLICATION

INSTITUTING PROCEEDINGS
filed in the Registry of the Court
on 29 April 1999

LEGALITY OF USE OF FORCE
(YUGOSLAVIA v. PORTUGAL)

1999
General List
No. 111

**I. THE AGENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA
TO THE REGISTRAR OF THE INTERNATIONAL COURT
OF JUSTICE**

I have the honour to hand over to you a letter of H.E. Mr. Zivadin Jovanovic, Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia, nominating Mr. Milenko Kreca as Judge *ad hoc* and Mr. Rodoljub Etinski, Chief Legal Adviser of the Federal Ministry for Foreign Affairs and H.E. Mr. Milan Grubic, Ambassador of the FR of Yugoslavia to the Kingdom of the Netherlands as Agent and Co-Agent respectively, in cases instituted by the applications referred to in this letter and the related cover letter addressed to you. I am also delivering to you the applications of the FR of Yugoslavia against the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Republic of France, the Federal Republic of Germany, the Republic of Italy, the Kingdom of the Netherlands, the Kingdom of Belgium, Canada, Portugal and the Kingdom of Spain for the violation of the obligation not to use force, related requests for preliminary measures of protection supplemented by annex with photo-evidence and the letter to the President and the Members of the Court urging a decision on preliminary measures, as well as copy of the Declaration on the acceptance by the Federal Republic of Yugoslavia of the compulsory jurisdiction of the International Court of Justice.

(Signed) Rodoljub Etinski,

Agent of the FR of Yugoslavia.

I hereby declare that the Government of the Federal Republic of Yugoslavia recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes arising or which may arise after the signature of the present Declaration, with regard

to the situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present Declaration does not apply to disputes relating to questions which, under international law, fall exclusively within the jurisdiction of the Federal Republic of Yugoslavia, as well as to territorial disputes.

The aforesaid obligation is accepted until such time as notice may be given to terminate the acceptance.

New York, 25 April 1999.

(Signed) Vladislav Jovanovic,

Chargé d'affaires a.i. of
the Permanent Mission of Yugoslavia
to the United Nations.

**II. THE FEDERAL MINISTER FOR FOREIGN AFFAIRS
OF THE FEDERAL REPUBLIC OF YUGOSLAVIA TO THE
PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE**

Belgrade, 26 April 1999

I have the honour to inform you that in accordance with paragraph 1, Article 42, of the Statute of the Court and paragraph 2, Article 40, of the Rules of Court, the Federal Government of the Federal Republic of Yugoslavia has appointed Professor Dr. Rodoljub Etinski, Chief Legal Adviser to the Ministry of Foreign Affairs of the Federal Republic of Yugoslavia as its Agent and Mr. Milan Grubic, Ambassador of the Federal Republic of Yugoslavia to the Netherlands as its Co-Agent in the cases the Federal Republic of Yugoslavia *v.* the United States of America, the Federal Republic of Yugoslavia *v.* the United Kingdom, the Federal Republic of Yugoslavia *v.* France, the Federal Republic of Yugoslavia *v.* the Federal Republic of Germany, the Federal Republic of Yugoslavia *v.* Italy, the Federal Republic of Yugoslavia *v.* the Netherlands, the Federal Republic of Yugoslavia *v.* Belgium, the Federal Republic of Yugoslavia *v.* Canada, the Federal Republic of Yugoslavia *v.* Portugal and the Federal Republic of Yugoslavia *v.* Spain, concerning Breach of the Obligation Not to Use Force.

I have further the honour to inform you that on the basis of paragraph 3, Article 31, of the Statute of the Court and paragraph 1, Article 35, of the Rules of Court, the Federal Republic of Yugoslavia wishes to nominate Professor Dr. Milenko Kreca as Judge *ad hoc*.

(Signed) Zivadin Jovanovic.

III. APPLICATION OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

On the basis of Article 40 of the Statute of the International Court of Justice and Article 38 of the Rules of the Court, I submit the following: "Application of the Federal Republic of Yugoslavia against Portugal for Violation of the Obligation Not to Use Force".

Subject of the dispute

The subject-matter of the dispute are acts of Portugal by which it has violated its international obligation banning the use of force against another State, the obligation not to intervene in the internal affairs of another State, the obligation not to violate the sovereignty of another State, the obligation to protect the civilian population and civilian objects in wartime, the obligation to protect the environment, the obligation relating to free navigation on international rivers, the obligation regarding fundamental human rights and freedoms, the obligation not to use prohibited weapons, the obligation not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group.

Legal grounds for jurisdiction of the Court The Government of the Federal Republic of Yugoslavia invokes Article 36, para 2 of the Statute of the International Court of Justice as well as Article 9 of the Convention on the Prevention and Punishment of the Crime of Genocide.

Claim

The Government of the Federal Republic of Yugoslavia requests the International Court of Justice to adjudge and declare:

- by taking part in the bombing of the territory of the Federal Republic of Yugoslavia, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use force against another State;

- by taking part in the training, arming, financing, equipping and supplying terrorist groups, i.e. the so-called "Kosovo Liberation Army", Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation not to intervene in the affairs of another State;

- by taking part in attacks on civilian targets, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation to spare the civilian population, civilians and civilian objects;

- by taking part in destroying or damaging monasteries, monuments of culture, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation not to commit any act of hostility directed against historical monuments, works of art or places of worship which constitute cultural or spiritual heritage of people;

- by taking part in the use of cluster bombs, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use prohibited weapons, i.e. weapons calculated to cause unnecessary suffering;

- by taking part in the bombing of oil refineries and chemical plants, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation not to cause considerable environmental damage;

- by taking part in the use of weapons containing depleted uranium, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use prohibited weapons and not to cause far-reaching health and environmental damage;

- by taking part in killing civilians, destroying enterprises, communications, health and cultural institutions, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect the right to life, the right to work, the right to information, the right to health care as well as other basic human rights;

- by taking part in destroying bridges on international rivers, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect freedom of navigation on international rivers;

- by taking part in activities listed above, and in particular by causing enormous environmental damage and by using depleted uranium, Portugal has acted against the Federal Republic of Yugoslavia in breach of its obligation not to deliberately inflict on a national group conditions of life calculated to bring about its physical destruction, in whole or in part;

- Portugal is responsible for the violation of the above international obligations;

- Portugal is obliged to stop immediately the violation of the above obligations vis-a-vis the Federal Republic of Yugoslavia;

- Portugal is obliged to provide compensation for the damage done to the Federal Republic of Yugoslavia and to its citizens and juridical persons.

The Federal Republic of Yugoslavia reserves the right to submit subsequently accurate evaluation of the damage.

Facts upon which the claim is based

The Government of Portugal , together with the Governments of other Member States of NATO, took part in the acts of use of force against the Federal Republic of Yugoslavia by taking part in bombing targets in the Federal Republic of Yugoslavia. In bombing the Federal Republic of Yugoslavia military and civilian targets were attacked. Great number of people were killed, including a great many civilians. Residential houses came under attack. Numerous dwellings were destroyed. Enormous damage was caused to schools, hospitals, radio and television stations, cultural and health institutions and to places of worship. A large number of bridges, roads and railway lines were destroyed. Attacks on oil refineries and chemical plants have had serious environmental effects on cities, towns and villages in the Federal Republic of Yugoslavia. The use of weapons containing depleted uranium is having far-reaching consequences for human life. The above-mentioned acts are deliberately creating conditions calculated at the physical destruction of an ethnic group, in whole or in part. The Government of Portugal is taking part in the training, arming, financing, equipping and supplying the so-called "Kosovo Liberation Army".

Legal grounds on which the claim is based

The above acts of the Government of Portugal represent a gross violation of the obligation not to use force against another State. By financing, arming, training and equipping the so-called "Kosovo Liberation Army", support is given to terrorist groups and the secessionist movement in the territory of the Federal Republic of Yugoslavia in breach of the obligation not to intervene in the internal affairs of another State. In addition, the provisions of the Geneva Convention of 1949 and of the Additional Protocol No. 1 of 1977 on the protection of civilians and civilian objects in time of war have been violated. The obligation to protect the environment has also been breached. The destruction of bridges on the Danube is in contravention of the provisions of Article 1 of the 1948 Convention on free navigation on the Danube. The provisions of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights of 1966 have also been breached. Furthermore, the obligation contained in the Convention on the Prevention and Punishment of the Crime of Genocide not to impose deliberately on a national group conditions of life calculated to bring about the physical destruction of the group has been breached. Furthermore, the activities in which Portugal is taking part are contrary to Article 53, para 1 of the Charter of the United Nations.

The Government of the FR of Yugoslavia reserves the right to amend and supplement this Application.

(Signed) Rodoljub Etinski
Agent
for the Federal Republic of Yugoslavia