

Non-Corrigé
Uncorrected

Traduction
Translation

ARCHIVES

CR 99/33 (traduction)

CR 99/33 (translation)

Mercredi 12 mai à 16 h 25

Wednesday 12 May at 4.25 p.m.

08

Le VICE-PRESIDENT, faisant fonction de président : La Cour va maintenant entendre l'affaire qui oppose la Yougoslavie à l'Espagne et j'invite le juge *ad hoc* pour l'Espagne à se joindre à nous. Cette procédure va commencer dans quelques minutes. J'appelle à la barre M. Giralda, agent de l'Espagne.

Mr. GIRALDA: Mr. President, Members of the Court, in my presentation yesterday I referred to two bases of jurisdiction alleged by the Federal Republic of Yugoslavia in its Application against Spain, that is to say Article 36, paragraph 2, of the Statute of the International Court of Justice and Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide. I showed that the conditions contained in Spain's declaration of 29 October 1990 and the reservation made by Spain in respect of the whole of Article IX of that Convention both constitute valid objections to the Court's jurisdiction in the present case.

The opposing Party having failed even to contest my country's arguments, I propose to restate to the Court the submissions I have already made to it.

But first allow me once again to denounce the manifest intention of the Federal Republic of Yugoslavia to use this Court for the purposes of political propaganda with no respect for the highest judicial organ of the international community. In this connection I would like to recall one reference to the Kingdom of Spain, amongst many, made by the distinguished counsel for the Federal Republic of Yugoslavia. He declared himself astonished that certain respondent States denounced the total absence of evidence to support the accusations against them. The Court can see here another attempt to lead it into a political discussion completely foreign to the nature of its jurisdiction. Rather than taking part in this manoeuvre, Spain, out of respect for the Court, has chosen to respond to the Application in the terms in which it has been expressed, that is to say (I quote from the original language version): "Application of the Federal Republic of Yugoslavia against the Kingdom of Spain for violation of the obligation not to use force". Mr. President, Members of the Court, here is further proof of the effrontery used to attempt to distract your attention from the question of law raised. Spain re-affirms its political solidarity with the other

09

Members of the Atlantic Alliance. But it acts before [what is] a court of law in respecting the terms according to which it was summoned to this hearing.

In another statement by the opposing Party in its reply this morning, my country was mentioned again in relation to the need to take account of each Party's intentions in interpreting the terms of its unilateral declaration accepting the compulsory jurisdiction of the Court. You were told, in particular, that the intention of the Federal Republic of Yugoslavia in depositing its declaration of 25 April 1999 was precisely to submit to the Court the dispute which has given rise to its applications against Spain and the other respondent States. This declaration provides Spain with another basis for objecting to the Court's jurisdiction. May I remind the Court that, in its own declaration pursuant to Article 36, paragraph 2, the Kingdom of Spain limits its acceptance of the compulsory jurisdiction of the Court by excluding, in paragraph 1 (b), "disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question".

For this reason and for the others already submitted to the Court, I conclude in once again requesting the Court to:

1. Declare that it has no jurisdiction to adjudicate upon the Application filed by the Federal Republic of Yugoslavia;
2. Reject the request of the Government of the Federal Republic of Yugoslavia for the indication of provisional measures against the Kingdom of Spain;
3. Decide to remove this case from the General List of the Court.

Mr. President, Members of the Court, thank you for your kind attention.

Le VICE-PRESIDENT, faisant fonction de président : Je vous remercie, M. Giralda. Ceci achève l'exposé du Royaume d'Espagne dans l'affaire entre la Yougoslavie et l'Espagne. La Cour va maintenant reprendre ses audiences dans l'affaire entre la Yougoslavie et le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord. Le juge *ad hoc* pour l'Espagne va maintenant être escorté hors du prétoire. Nous le remercions d'avoir siégé avec nous.

La séance est levée à 16 h. 35.

