



Chair:

Taumoha Ghosh

jhumki@berkeley.edu

Vice-Chairs:

Donna Artusy

Sarah van Vliet

Marko Ristic

International Court of Justice (ICJ)



Croatia vs. Serbia and Montenegro

Topic Background

This case first came to the attention of the International Court of Justice in July 1999 with the application made by the Republic of Croatia against the then Federal Republic of Yugoslavia, now known as the separately recognized states of Serbia and Montenegro as of mid-2006. The Republic of Croatia accused Serbia and Montenegro of the crime of genocide against the Croatian people and asked that the United Nations intervene to prevent and punish this crime. Under Article 36 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, the Republic of Croatia decided to bring this case forth in front of the ICJ.

Prior to its independence from Yugoslavia in 1991, the Croatian state had existed in one form or another for over 1,000 years beginning under the rule of the Croatian king, Tomislav. It maintained its legal status and autonomy within both the Hungarian kingdom and the Austro-Hungarian Empire. After World War I and the disintegration of Austria-Hungary in October 1918, Croatia became part of the Kingdom of Serbs, Croats, and Slovenes, which was to become the Kingdom of Yugoslavia in 1929 and thus become a dictatorship under King Alexander Karagjorgjevic. During World War II the communist-led forces declared a new Yugoslavia and in 1945 set up a federal state of six republics making Croatia a republic within Yugoslavia.

According to the Croatian application, the inclusion of the Croatian state as part of Yugoslavia was done without the approval of the Croatian people. The history of violence between the Croats and the Serbs is part of an ethnic, cultural,

territorial, and political conflict that began with the political struggle between the two groups to gain control within the state system of Yugoslavia as two competing national groups. During the period of communist rule and Soviet domination the struggle was maintained at a low level. However in 1988, the Serbs finally secured control in the post-Tito Yugoslavia by obtaining the majority of the votes for the Yugoslav presidency. In response, the Croatian Democratic Union was formed on February 28, 1989 under Dr. Franjo Tudjman, who would lead Croatia to its restoration as a sovereign state. Facing the prospect of possible Serb control under the guidance of Slobodan Milosevic, Croatia, along with Slovenia, declared its independence on June 25, 1991. Croatia was recognized internationally in January 2002 by the European Community and in April of the same year by the United States of America.

The conflict brought before the ICJ began prior to international recognition and indeed any form of declaration of independence by the Croatian state, when Croatian Serbs declared the establishment of the Republic of Serbian Krajina in the area of Croatia bordering Bosnia-Herzegovina and Vojvodina in December 1990. This was after a year of alleged efforts made by the Belgrade government to persuade the Croatian Serbs to act in an attempt to subvert the Croatian government and undermine its sovereignty and territorial integrity.

In February 1991 intentions to form a Greater Serbia were declared by rebel leaders in the Knin region of Croatia. In March 1991, Serbian terrorists armed with weapons from the Yugoslav People's Army (JNA) blocked Croatian policemen and opened fire resulting in the first police



officer death due to the conflict. During the course of the next year the Croatian state claims that the Croatian Serbs, with help from the Belgrade government and the support of paramilitary forces within Croatia dominated by Serbs, caused countless deaths and a multitude of damage in an effort to "ethnically cleanse" the regions needed to create a Greater Serbia.

In January 1992 a ceasefire between Croatia and the JNA was brokered by former Secretary of State of the United States of America, Mr. Cyrus Vance along with a special envoy from the United Nations Secretary-General. In February 1992 with the help of United Nations peacekeeping forces the violence in Croatia had ended. However, territory was still held by the Croatian Serbs leading to future operations including Operation Flash and Operation Storm, which eventually resulted in the end of the occupation of territory that had been "ethnically cleansed" by the Serbs.

It is the purpose of this council to decide whether or not the "ethnic cleansing" that occurred during the course of time between 1991 and 1995 in Croatia was in fact genocide and thus under the jurisdiction of the Genocide Convention punishable by this court. If it was genocide, the council must then decide if the Belgrade Government was responsible, and thereby making the states of Serbia and Montenegro accountable. For an understanding of the definition of genocide as determined by the Genocide Convention Article 2:

"Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious groups, as such:

- a. Killing members of the group;

- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group." (Genocide Convention, 1948)

Case Studies

In bringing forth the case to the ICJ, Croatia brought up several allegations of genocide. One such instance occurred in November 1991 in Vukovar, located in eastern Croatia and a major river port for the country. The JNA had attacked the city leaving only 15,000 survivors who were displaced as a result of the massacre. Countless historic, cultural, and sacred artifacts were destroyed. A hospital was attacked and a mass grave was later found with some 200 bodies of patients and wounded persons taken from that hospital. 1,700 people were killed in the massacre with 4,000 wounded and between 3,000 and 5,000 people were taken prisoner, along with 1,000 people remaining unaccounted for. According to the Croatians, the atrocities inflicted on the Vukovar people by the Serbian forces were brutal and the resulting humanitarian crisis amongst the displaced people was unprecedented.

Other allegations include the destruction of the ancient, walled city of Dubrovnik leading to the death of hundreds of civilians and practically ending all tourist trade in the region. Others refer to the exact level of involvement by the Belgrade Government in the operations of the JNA. These include the amount of weaponry and the amount of personnel donated by the



Belgrade Government to the JNA cause. For instance by mid-1991 19,029 artillery and rocket pieces, including 1,799 antitank guns, 4,200 recoilless rifles, 6,400 mortars, and 2,000 anti-aircraft cannons had been used against Croatia. The attacks on Croatia were carried out by approximately 100,000 members of the JNA under the direction of the Belgrade Government. Discovery of mass graves and other damages were also included in the application by Croatia. This includes an estimated count of 20,000 dead and 55,000 wounded along with 3,000 persons remaining unaccounted for.

Along with this, Part C of Article II of the Genocide Convention was mentioned in the application, due to 3 million explosive devices being planted countless acres of arable land made unusable and approximately 25 percent of Croatia's economic capacity destroyed as a result of the attacks conducted by the Serbian forces in an effort to clear parts of Lika, Slavonia, Banovina, and Dalmatia of non-Serbs. Furthermore, countless villages were destroyed via arson leading to the physical destruction of people's homes and livelihoods and their subsequent displacement.

Past UN Action

The United Nations has reacted to the situation referred to in this application in a multitude of ways. The Security Council and General Assembly passed resolutions condemning the violence and deployed peacekeeping units to the area in the early 1990s in an effort to establish a ceasefire, which was done so with the help of a special envoy of the UN Secretary General in 1992. The General Assembly further recognized the "ethnic cleansing" occurring in Croatia as genocide in December 1992.

Points and Questions to Consider

Hopefully the council can come to a conclusion regarding this case during the course of the 56th session of Berkeley Model United Nations. It is up to each of the judges to consider the arguments presented by both the Croatian people and the Serbian people as to whether or not genocide occurred. If it is decided that genocide has occurred, each of the judges must also consider whether or not the Belgrade Government and thus in extension Serbia and Montenegro are responsible and thus liable for punishment. To this effect consideration of Article III of the Genocide Convention may be useful.

In addition, the ICJ has seen a similar case brought up against Serbia and Montenegro by Bosnia and Herzegovina in 1996, which may be useful to look at during the course of your research of this topic. Also look at the objections made by Serbia and Montenegro in regards to the jurisdiction of the ICJ to preside over this case.

Remember as well during the course of the trial, that both sides will be heavily biased and as such you must consider both sides of the argument and attempt to stay neutral until you have heard the whole case. Also, attempt to read all the documents of the case as well as look at documents presented in the General Assembly and Security Council in regards to the topic. Keep in mind that your considerations are in no way representing your country, and as such you are independent in your decisions as a judge of the ICJ.



Works Cited

UN Convention on the Prevention and
Punishment of Genocide 1948

Application of the Convention on the
Prevention and Punishment of Genocide
(Croatia vs. Serbia and Montenegro)