

## World Court reaffirms April ruling vs. Serbia

On Sept. 13, the International Court of Justice in The Hague made public its decision on the urgent petition by the Republic of Bosnia-Herzegovina for conservatory measures under Article 9 of the Genocide Convention. Russia and Serbia dissented from the majority opinion. This is the first time in the court's history that it has met twice to consider a second petition in the same cause.

In order to avoid misunderstandings and excessive constructions being put on the court's order, we make the key passages of the order available to our readers. They read as follows:

"Since [our] Order of April 8th 1993, and despite that Order . . . great suffering and loss of life has been sustained by the population of Bosnia-Herzegovina in circumstances which shock the conscience of mankind and flagrantly conflict with moral law and the spirit and aims of the United Nations. . . . Since the Order of 8th April 1993 was made, the grave risk which the Court then apprehended of action being taken which may aggravate or extend the existing dispute over the prevention and punishment of the crime of

genocide, or render it more difficult of solution, has been deepened by the persistence of conflicts on the territory of Bosnia-Herzegovina and the commission of heinous acts in the course of those conflicts. . . .

. . . "The Security Council in Resolution 819 (1993) of 16th April 1993, took note of the Court's Order of 8th April 1993, in which the Court indicated that the F.R. [Federal Republic] of Yugoslavia (Serbia and Montenegro) should take all measures within its power to prevent the commission of the crime of genocide. . . . [T]he Security Council in Resolution 859 (1993) of 24th August 1993 which, *inter alia*, affirmed the continuing membership of Bosnia-Herzegovina in the U.N., reaffirmed the principle of the unacceptability of the acquisition of territory by force and recalled that of individual responsibility for the perpetration of war crimes. . . .

"The Court . . . is not satisfied that all that might have been done has been done to prevent commission of the crime of genocide in the territory of Bosnia-Herzegovina, and to ensure that no action is taken which may aggravate or extend the existing dispute. . . .

. . . "The present perilous situation demands, not an indication of provisional measures additional to those indicated by the Court's Order of 8th April 1993 . . . but immediate and effective implementation of those measures. . . .

"For these reasons, the Court reaffirms the provisional measures indicated in paragraphs 52 A(1), 52 A(2) and 52 B which should be immediately and effectively implemented."

### Bosnian activist thanks the Schiller Institute

*This statement was made at the Schiller Institute-International Caucus of Labor Committees Labor Day conference in Virginia by Djenana Campara, of the Bosnian Information Center in Ottawa, Canada.*

Dear Friends from the Schiller Institute:

I am very pleased to be able to meet with you in person, some of you for the second or third time. I wish to thank you for having invited me to participate in your gathering here in Washington.

While the activities of the Schiller Institute and its associates are of significant importance in these troubling times, it is the work on behalf of the most fundamental principles of democracy, justice, and human rights regarding Bosnia and Herzegovina that is particularly valuable to us.

The Republic of Bosnia and Herzegovina and its peo-

ple are fighting, literally, the rest of the world. In their fight they must be victorious — as a matter of principle. They are fighting for the rest of us who will follow their path, whether it leads all of humanity into a better future, or deep into the basement of civilization.

You have been of great help to us at the Bosnia-Herzegovina Information Center in Ottawa, and also to our elected and appointed representatives, and for that I wish to express our profound gratitude. I hope that a day will come soon when we will meet again in celebration — a day when Bosnia and Herzegovina will have been saved for all of us. But our work will not come to an end then, as there is injustice all over the world.

The need for your leadership in aspiring for justice for all the peoples of the world is now greater than ever before, however; the results of your work are also becoming increasingly obvious even to those who, until recently, haven't been able to face the truth — that in 1993, in the middle of the most powerful democracy on earth, a political prisoner, a prisoner of conscience, can indeed be a reality.

Thank you again for your work and your help.

## Immediate and effective military action

We remind our readers that these provisional measures of April 8, 1993, were highly unfavorable to the government of Yugoslavia, namely, that that government should take all measures within its power to prevent commission of the crime of genocide, and ensure that "any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, or direct and public incitement to commit genocide, or of complicity in genocide. . . ."

The new element is the words, "*immediate and effective implementation of these measures.*" This can mean anything, including an implicit recommendation to the U.N. Security Council for immediate and effective military action against Serbia.

The ball is in the court of the Security Council.

However, the International Court of Justice *refused* to grant what was, essentially, a demand by Bosnia-Herzegovina that the court make a declaration clarifying the position in international law under the Genocide Convention, to the effect, that upholding the current arms embargo against her constitutes, by every nation which signed that convention, a manifest violation of the convention, and further, that every such nation is legally *bound* to obey her call for succor, by intervening militarily in her favor. The court avoided making what would be, in fact, a completely new departure in international law, by saying that the court may indicate provisional measures to be taken by the parties before the court, but *not* by third states or other entities who would not be bound by the eventual judgment.

The court also said that it was unable to accept Bosnia's contention, in its request for provisional measures, that partition and dismemberment or annexation of a sovereign state could in itself constitute an act of genocide. This is not surprising, given the fact that the dissenting opinions of Russia and Serbia explicitly support the Geneva negotiations. Judge Tarassov of Russia went so far as to say that the court should have "encouraged" both sides to "make a positive contribution to the success of the Geneva peace negotiations."

## Not some piffling dispute

Opinions qualified as "separate," but which were in fact dissenting opinions in Bosnia's favor, were delivered in writing by Judge Elihu Lauterpacht, the *ad hoc* judge named by Bosnia, and by Judges Shahabuddeen (Guyana) and Christopher Weeramantry (Sri Lanka). As these are lengthy and somewhat technical, we can only summarize the line of argument here. All three judges noted, in varying ways, that the Bosnian petition cannot be compared to some piffling dispute over sea lanes or international business legislation, but that the court is faced with the worst case ever put before it in its 70-year history. In Judge Weeramantry's view, the life-or-

death issue for Bosnia raises the question as to whether the court can issue legal obligations on the respondent which are *binding*.

Because of the acuteness of the crisis, he said, this has become a central issue for the international legal system. Unless the court is prepared to consider its own orders as binding, and to seek the means by which its orders can be enforced, Weeramantry concludes in essence, the court will bring complete discredit upon itself and upon international law; in the current case, "noncompliance with that order endangers the very subject of the dispute before the court." The same question was raised by Judge Shahabuddeen, who, in the body of his argument, attacked the credibility of all of Yugoslavia's counter-claims. Judge Lauterpacht, named by the government of Bosnia, is a professor of international law at Cambridge University. Writing in an intense and personal tone, he argued in a 30-page statement that, *inter alia*, the court had erred in not calling for lifting the arms embargo and in not specifically demanding that all Yugoslavian aid to the Serbian war effort in Bosnia be cut off.

## European bishops on Bosnia

*From an appeal for peace in Croatia and Bosnia-Herzegovina launched by the participants in the eighth symposium of the Council of European Bishops Conferences in Prague on Sept. 12, 1993 "to the leaders of the international community and public opinion":*

Among the various and grave situations which compromise freedom and solidarity in Europe, we are particularly struck by the sufferings of the populations of ex-Yugoslavia, hit by a war which has lasted far too long. This war involves countless losses of human lives and the collapse of human and religious values. . . .

We are perplexed in the face of the difficulties in obtaining objective news about what is occurring in those regions. . . . We are especially surprised by the prospect by which the aggressor force may finally prevail over the rights of individuals, families, and of ethnic and religious groups. . . . We cannot accept such a prospect, because in this way, in Bosnia-Herzegovina, Europe dies as a community based on rights and not on violence.

We are distressed by the brutality of the military forces which are struggling to conquer territory.

We cannot understand the ineffectiveness of international organizations, which appear incapable of stopping the bloodshed, the destruction, and the untold sufferings of innocent and defenseless men, women, and children. One has the impression that once again, the weakest are being sacrificed for the interests of the powerful of this world. . . .