

# Bosnia presents charges of Serbian genocide to International Court

*The Republic of Bosnia and Herzegovina on April 1 presented evidence of genocide and war crimes against Serbia and Montenegro before the International Court of Justice in The Hague. The republic's legal representative, Prof. Francis Boyle, an expert in international law from the University of Illinois, delivered the opening statement, in which he charged that a holocaust of Nazi dimensions, aimed at the extinction of "an entire ethnic group," is being carried out. The world has not witnessed such crimes against humanity since the Hitler era, he said: More than 2 million Bosnians have been expelled, several tens of thousands killed, and several hundred thousand are facing imminent expulsion, starvation, and extinction as a result of Serbian actions.*

*"You have it in your power to stop World War III, which is unfolding in the Balkans now," he told the judges. He demanded that the Court recommend to the U.N. Security Council that the embargo against Bosnia be immediately lifted, on the grounds that Bosnia has an internationally guaranteed right to self-defense.*

*The document excerpted here, "Request for the Indication of Provisional Measures of Protection Submitted by the Government of the Republic of Bosnia and Herzegovina," was submitted to the International Court on March 20 by Mr. Boyle and by Muhamed Sacirbey, the Bosnian ambassador to the United Nations. It is a request for emergency action—similar to a temporary restraining order in the U.S. legal system—on the grounds that Serbian aggression must be stopped immediately, and that this cannot wait for the outcome of a lengthy trial.*

3. [The] facts show that Yugoslavia (Serbia and Montenegro) is committing acts of genocide and other genocidal acts against the People and State of Bosnia and Herzegovina, both directly and by means of its agents and surrogates operating in Bosnia and elsewhere, in gross violation of the Genocide Convention. The facts also show that Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, are perpetrating an armed attack and an armed aggression, upon the People and State of Bosnia and Herzegovina in gross violation of the United Nations Charter and basic principles of customary international law, including the laws of war and international hu-

manitarian law. The facts also show that Yugoslavia (Serbia and Montenegro), together with its agents and surrogates operating in Bosnia and elsewhere, have perpetrated a gross and consistent pattern of violations of the Four Geneva Conventions of 1949, their Additional Protocol I of 1977, and the Hague Regulations on Land Warfare of 1907 upon the People and State of Bosnia and Herzegovina. The facts also show that Yugoslavia (Serbia and Montenegro), together with its agents and surrogates operating in Bosnia and elsewhere, have perpetrated a gross and consistent pattern of violations of the Universal Declaration of Human Rights of 1948 upon the citizens of Bosnia and Herzegovina. The urgency, gravity, and immediacy of the situation in Bosnia and Herzegovina could not be more obvious for the entire world to see.

4. The illegal, criminal, and morally reprehensible activities by Yugoslavia (Serbia and Montenegro), together with its agents and surrogates operating in Bosnia and elsewhere, perpetrated against the People and State of Bosnia and Herzegovina constitute flagrant violations of the most elementary and fundamental principles of international law and of the basic provisions of the Genocide Convention, the United Nations Charter, the Four Geneva Conventions and Additional Protocol I, the Hague Regulations, the Universal Declaration of Human Rights, and other treaties prohibiting the threat or use of force in the conduct of international relations, as well as of basic rules of customary international law, the laws of war, international humanitarian law, international criminal law, and *jus cogens*.

5. The illegal and criminal activities of Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, and the consequences for the People and State of Bosnia and Herzegovina have persisted now for approximately one year despite repeated efforts by Bosnia and Herzegovina and disinterested third parties . . . to initiate procedures for the peaceful settlement of any and all differences between Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) as required by the United Nations Charter. Despite its pious proclamations, Yugoslavia (Serbia and Montenegro) and its agents and surrogates in Bosnia and elsewhere have consistently refused, and continue to refuse, to terminate their illegal and criminal activities

against the People and State of Bosnia and Herzegovina. Based upon their barbarous behavior during the past year, there is absolutely no reason whatsoever to believe that Yugoslavia (Serbia and Montenegro), together with its agents and surrogates, will voluntarily desist from their illegal course of conduct while this case is pending before the Court.

### **B. The consequences sought to be avoided by provisional measures**

6. The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina. The continuance of the situation that is the subject of the present Request will expose hundreds of thousands of innocent human beings to the certainty of death, starvation, malnutrition, severe bodily injury, torture, physical and mental harm, as well as the mass rape of women and the systematic abuse of children. . . .

### **C. The urgency of the request**

11. The foregoing recitals sufficiently indicate the urgent need for the provisional measures requested below to be granted forthwith by the Court. The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court.

12. Yugoslavia (Serbia and Montenegro) and its agents and surrogates in Bosnia have given no indication that they are willing to desist from their criminal and illegal actions. At this very moment, the Respondent is seeking the resources to continue and intensify its unlawful activities. The situation has already resulted in a dangerous level of tension, not only between Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro), but among all of the States and Peoples living in the immediate vicinity of the Balkans Peninsula. The situation in Bosnia and Herzegovina has already produced serious implications for international peace and security in this region of the world. It is clear that, in the absence of an indication of provisional measures, the dispute between Bosnia and Herzegovina and Yugoslavia (Serbia and Montenegro) will be aggravated and extended. The gravest consequences cannot be excluded for world peace itself.

13. Twentieth century history testifies that the First World War began in 1914 with an assassination at Sarajevo, which is now the capital of the Republic of Bosnia and Herzegovina. Perhaps at that time if Austria had accepted Serbia's offer to submit the entire dispute arising out of this assassination to "the International Tribunal of The Hague," the entire First World War could have been avoided. But the Permanent Court of Arbitration was constitutionally incapable of acting on time to prevent this monumental catastrophe for humankind. Not so for the International Court of Justice! The grant of the provisional measures set forth below could

very well prevent the development of World War III.

### **D. Provisional measures requested**

14. Given that the Court's jurisdiction in this case is *prima facie* established under the Genocide Convention, Bosnia and Herzegovina submits that there are no impediments to indicating provisional measures. Accordingly, Bosnia and Herzegovina respectfully requests that the Court indicate the following provisional measures to be in effect while the Court is seized in this case:

1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called "ethnic cleansing"; the wanton devastating of villages, towns, districts, and cities; the siege of villages, towns, districts, and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centers; and the detention of civilians in concentration camps or otherwise.

2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support—including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support—to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.

3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.

4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other states in order to defend itself and its People, including by means of immediately obtaining military weapons, equipment, and supplies.

5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any state to come to its defense, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).

6. That under the current circumstances, any state has the right to come to the immediate defense of Bosnia and Herzegovina—at its request—including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.). . . .