**Notes on ICJ**

We are very excited to have our first International Court of Justice. This advanced tier simulation operates differently from a normal Model UN Committee in a few key ways:

1. Participants are Justices, not Delegates.

*Justices represent the opinion they personally have come to in the course of their research. Instead of writing position papers, they should write opinion papers (about 1 page in length) summarizing the conclusion they have come to and the research or logic that brought them there.*

1. The goal of committee is to pass a judgment, not a resolution.

*During voting block, Justices will participate in a role call vote and state “yes” or “no” for the application of the Convention on the Prevention and Punishment of Genocide to Serbia.*

1. Proceedings in session – variations on Parliamentary Procedure

*This information will be provided before the conference.*

**Case: Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)**

In 1991, the Republic of Croatia declared its independence from the Socialist Federal Republic of Yugoslavia (SFRY). Years of hate-filled propaganda had shaped the Yugoslav people; the Serbian media and politicians been referring to Croatian leadership as "Ustaše", a reference to the Croatian organization of World War 2 that committed atrocities to the Serbian people and non-Catholics alike. This rhetoric was approved by the Serbian political leadership, and it accused the Croatian leadership of being "blindly nationalistic" when it objected[[1]](#footnote-1). From the death of Tito, Yugoslavia had been falling apart to ultranationalist propaganda exacerbated by politicians and the every fragile environment of Eastern Europe after the collapse of the Berlin Wall. Upon declaring independence, Serbs as a large portion of the Croatian population were offered autonomy. Serbs declined the offer for the opportunity to forcibly regain Yugoslavia, while other sources state that Serbs demanded autonomy and were refused. The unrecognized entity seeking unification with Serbia known as the Serbian Autonomous Oblast of Krajina (SAO Krajina) declared secession from Croatia on the 1st of April, 1991. The SAO Krajina soon declared itself a client state of Serbia and was known until 1995 as the Republic of Serbian Krajina, home of the operations of the Yugoslav People’s Army (JNA). While skirmishes had already begun between the JNA and Croatian forces, on the 19th of May, 1991, the Croatian government held a referendum on independence with limited attachment to the remaining country of Yugoslavia[[2]](#footnote-2). The referendum passed with 93.24% favour[[3]](#footnote-3). According to the recommendations of the European Community and the Conference on Security and Cooperation in Europe, the Croatians placed a three month moratorium on the decision, and Croatia. Among the many factions of Serbian forces fighting from 1991 to 1995 in Croatia were the JNA, the Serbian Army of Krajina (SVK), Serbian Volunteer Guard (Arkan’s Tigers), Unit for Special Operations (JSO), Serbian Guards (directly tied to the Serbian Renewal Movement, SPO), Scorpions, and the Wolves of Vučjak. Of these groups, many were paramilitary forces controlled by Serbian officials such as Slobodan Milošević, Goran Hađić, Milan Babić, Vojislav Šešelj, Milan Martić and countless others currently facing charges. On 2 July 1999, Croatia instituted proceedings before the Court against Serbia (then known as the Federal Republic of Yugoslavia) with respect to a dispute concerning alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter “the Genocide Convention”) committed between 1991 and 1995. Similar leaders of Croatian forces related to ethnic cleansings of Serbs and Bosniaks include Franjo Tuđman, the President of the Republic of Croatia; Gojko Šušak, the Minister of Defense of the Republic of Croatia; and Mate Boban, President of the Croatian Community (later Republic) of Herceg-Bosna, stated in a recent press release by the ICTY.

“On 2 July 1999, Croatia instituted proceedings before the Court against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia, FRY) with respect to a dispute concerning alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide committed between 1991 and 1995. In its application, Croatia contended *inter alia* that, ‘[b]y directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of… Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia’, Serbia and Montenegro was liable for ‘ethnic cleansing’ committed against Croatian citizens, ‘a form of genocide which resulted in large numbers of Croatian citizens being displaced, killed, tortured, or illegally detained, as well as extensive property destruction’. Accordingly, Croatia requested the Court to adjudge and declare that Serbia and Montenegro ‘has breached its legal obligations’ to Croatia under the Genocide Convention and that it ‘has an obligation to pay to…Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment …in a sum to be determined by the Court’…By an Order of 14 September 1999, the Court fixed 14 March 2000 and 14 September 2000 as the respective time-limits for the filing of a Memorial by Croatia and a Counter-Memorial by Serbia and Montenegro. These time-limits were twice extended, by Orders of 10 March 2000 and 27 June 2000. Croatia filed its Memorial within the time-limit as extended by the latter Order. On 11 September 2002, within the time-limit for the filing of its Counter-Memorial as extended by the Order of 27 June 2000, Serbia and Montenegro raised preliminary objections to jurisdiction and admissibility. It maintained in particular that the Court lacked jurisdiction over the dispute because the FRY was not party to the Genocide Convention on 2 July 1999, the date proceedings were instituted before the Court. Serbia and Montenegro contended that it did not become party to the Convention until 10 June 2001, after its admission to the United Nations on 1 November 2000, and, in addition, that it never became bound by Article IX of the Genocide Convention because it entered a reservation to that article when it acceded to the Convention. Serbia and Montenegro further argued that Croatia’s Application was inadmissible insofar as the most serious incidents and omissions described therein occurred prior to 27 April 1992, the date on which the FRY came into being, and could not therefore be attributed to it. Lastly, it asserted that certain specific claims made by Croatia were inadmissible or moot.”[[4]](#footnote-4)

The government of Croatia responded to the preliminary objections at the hearing of the 30th of May, 2008 as follows:

“On the basis of the facts and legal arguments presented in our Written Observations, as well as those during these oral pleadings, the Republic of Croatia respectfully requests the International Court of Justice to:

(1) reject the first, second and third preliminary objection of Serbia, with the exception of that part of the second preliminary objection which relates to the claim concerning the submission to trial of Mr. Slobodan Milošević, and accordingly to

(2) adjudge and declare that it has jurisdiction to adjudicate upon the Application filed by the Republic of Croatia on 2 July 1999.”[[5]](#footnote-5)

“The Court gives a brief account of the disintegration process of the SFRY in the early 1990s and of the decisions of the United Nations with respect to the legal status of the FRY. It recalls inter alia that on 22 September 1992, the General Assembly, acting on the recommendation of the Security Council, adopted resolution 47/1, whereby it was decided that the FRY should apply for membership in the United Nations and that it should not participate in the work of the General Assembly. It notes that the “sui generis position which the FRY found itself in” during the period between 1992 to 2000 (as the Court characterized it in a 2003 Judgment) came to an end with a letter dated 27 October 2000 sent by Mr. Koštunica to the United Nations Secretary-General, by which the newly elected President of the FRY requested admission of the FRY to membership in the United Nations. This membership was effective as of 1 November 2000. The Court observes that the question of the status and position of the State known at the time of the filing of the Application as the FRY, in relation to the Statute of the Court and to the Genocide Convention, has been in issue in a number of previous decisions. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), there were two decisions on requests for the indication of provisional measures (Orders of 8 April and 13 September 1993), a decision on preliminary objections (Judgment of 11 July 1996) and a decision on the merits (Judgment of 26 February 2007). In the case concerning Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina), the Court delivered a Judgment on 3 February 2003. In the set of cases concerning the Legality of Use of Force brought by the FRY against ten Member States of the North Atlantic Treaty Organization the Court rendered Judgments in eight of those cases on 15 December 2004 upholding preliminary objections on the ground of a lack of capacity on the part of the Applicant to appear before the Court.”[[6]](#footnote-6)

Annotated Bibliography:

The Balkans: Nationalism, War, and the Great Powers, 1804-1999. Glenny, Misha. New York. 1999

This book gives an accurate, in depth, and objective glance into the decades of antagonism from all sides in the Balkan Peninsula. Struggles for sovereignty and independence from within and outward are pronounced issues within this book.

The Fall of Yugoslavia. Glenny, Misha. Penguin Books. New York. 1999.

This book gives an accurate, in depth, and objective glance into the decades of antagonism from all sides in the Balkan Peninsula. Struggles for sovereignty and independence from within and outward are pronounced issues within this book.

Yugoslavia: Death of a Nation. Silber, Laura; Little, Allan.

This book gives an accurate, in depth, and objective glance into the decades of antagonism from all sides in the Balkan Peninsula. Struggles for sovereignty and independence from within and outward are pronounced issues within this book.

The Thorny Issue of Ethnic Autonomy in Croatia: Serb Ledaers and Proposlas for Autonomy. Caspersen, Nina. London School of Economics and Political Science, London, England. Issue 3/2003.

Exact Link:

<http://www.ecmi.de/fileadmin/downloads/publications/JEMIE/2003/nr3/Focus3-2003_Caspersen.pdf>

This article gives an accurate, in depth, and objective glance into the decades of antagonism from all sides in the Balkan Peninsula. Struggles for sovereignty and independence from within and outward are pronounced issues within this article.

1. Glaurdić, Josip. 2011. The Hour of Europe: Western Powers and the Breakup of Yugoslavia. Yale University Press. pp. 52–5 [↑](#footnote-ref-1)
2. "Croatia Calls for EC-Style Yugoslavia". Los Angeles Times. July 16, 1991 [↑](#footnote-ref-2)
3. Chuck Sudetic. "Croatia Votes for Sovereignty and Confederation". The New York Times. May 20, 1991 [↑](#footnote-ref-3)
4. Unofficial Press Release from the International Court of Justice. 10 April, 2008. http://www.icj-cij.org/docket/files/118/14476.pdf [↑](#footnote-ref-4)
5. Unofficial Press Release from the International Court of Justice. 18 November 2008. http://www.icj-cij.org/docket/files/118/14913.pdf [↑](#footnote-ref-5)
6. Ibid. [↑](#footnote-ref-6)