

BERMUN 2018

Memorandum to the International Court of Justice

**Government of Croatia**

in the case of

Croatia v. Serbia



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Chronology of Events

1. In December 1918, after 1,000 years of a successful Croatian State, the Serb Karagjorgjevic dynasty proclaims the area of the Croats, Slovenes and the Serbs without the consult of the Croatian parliament.
2. 11 years later, Alexander Karagjorgjevic created a dictatorship and taking away the name from the Croatian state and calling the whole region of the Croats, Slovenes and Serbs Yugoslavia, which translates to Land of South Slavs
3. From 1943 to 1945, Communist-led partisan forces set up a State of six republics after their victory in 1945, and so they proclaimed a new Yugoslavia.
4. This federal Government broke together by 1987-1988.
5. The path of the federal system of Yugoslavia was destroyed when Serbian leaders indirectly changed the Serbian constitution to give the SRS (Socialist Republic of Serbia) 4 out of 8 votes in the Yugoslav President election. This altering of the Serbs gave birth to a bias change of the Yugoslav Constitution in 1974.
6. The idea of uniting all Serbs living in the southern slavs countries, such as Serbia, Montenegro and Bosnia and Herzegovina was supported by rebel leaders in Knin and Mr. Slobodan Milosevic, who was the President of Yugoslavia at that time.
7. The tension escalated when Josip Jovic, a Croat policeman was killed by a Serb terrorist, who was part of the "Yugoslav People's Army" ("JNA"), on 31 March 1991.
8. A national plebiscite decided in June 1991 that Croatia shall be independent. Reason for that was the democracy that was implemented one year earlier after living under Communist rule for over 50 years.
9. From then on, Yugoslavia, but especially Serbia, lead the actions of many extremist groups to destroy the new democratic Constitution. The JNA had used within four months over 19,000 artillery against Croatia.
10. With the JNA raging in Croatia, a huge refugee crisis took place. This was due to the fact, that the JNA persecuted Croats in many regions. By November 1991, 600,000 Croats were on the list of displaced persons. Also the humanitarian standards failed, especially in Vukovar, after the massacre the JNA conducted there.
11. The Federal Republic of Yugoslavia, in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against the Republic of Croatia directly, and by means of its agents and surrogates, asserted de facto control over these areas in Croatia, such that it is liable for violations of the Genocide Convention that occurred on the territory of the Republic of Croatia.
12. After this aggression by the Federal Republic of Yugoslavia, the people of roata suffered tremendous damage. In the following is a list of the results of this genocide:
  - a. In Croatia, there were 20,000 dead and 55,000 wounded, with over 3,000 people still unaccounted for.
  - b. Out of the total number of victims, 303 children died, 35 children were taken prisoner and disappeared, and 1,276 children were wounded.

- c. 1,700 people were killed in Vukovar alone (1,100 of them were civilians), more than 4,000 people were wounded, between 3,000 and 5,000 taken prisoner, and 1,000 people are still unaccounted for.
  - d. In 1992, the humanitarian crisis in Croatia was at its peak, with approximately 800,000 displaced persons and refugees, which constituted more than 15 per cent of the total population of Croatia.
  - e. Several thousand Croat civilians were taken prisoner and forcibly transferred to Serbia and other areas of the Federal Republic of Yugoslavia. Of the 7,000 people later released, 60 per cent had spent time in prisons or detention facilities in Serbia.
  - f. According to estimates by the National Commission for the Registration and Assessment of War Damages, 590 towns and villages suffered damage, 35 were razed to the ground, with another 34 suffering significant damage.
  - g. 323 historical sites and settlements were destroyed or damaged.
  - h. 171,000 housing units (constituting approximately 10 percent of the housing capacity of Croatia) were destroyed, often by arson.
  - i. Approximately 450 Croatian Catholic churches were destroyed or severely damaged, with lesser damage to over 250 others. In addition, approximately 151 rectories, 31 monasteries, and 57 cemeteries were destroyed or severely damaged.
  - j. 210 libraries were destroyed or damaged (from school libraries to such famous libraries as those in Dubrovnik).
  - k. 22 journalists were killed, many of whom were trying to reveal the truth about the aggression against Croatia.
  - l. Estimates indicate that upwards of 3 million various explosive devices were planted within Croatia, mostly anti-personnel and anti-tank devices. These mines are, for the most part, uncharted, and block about 300,000 hectares of arable land.
  - m. About 25 percent of Croatia's total economic capacity, including such large facilities as the Adriatic Pipeline, was damaged or destroyed during 1991 - 1992. Approximately 10 percent of Croatia's tourist facilities were damaged or destroyed by the FRY-backed forces and agents.
13. On February 1992, the intervention of United Nations forces ended the armed conflict within Croatia but froze a situation in which the aggressor retained control of the Croatian territory it had seized illegally. This situation violated international law and the United Nations Charter and was unacceptable to Croatia. Nearly all Croats, other Croatian citizens, and members of ethnic minorities had either been killed or driven from their homes in these areas in the very first instance of ethnic cleansing by Mr. Milosevic's Serbia. Such conduct by Serbian officials, backed by the Federal Republic of Yugoslavia, constitutes genocide, as was recognized by United Nations General Assembly resolution 47/121 (18 December 1992). Clearly, the conduct of the Federal Republic of Yugoslavia violated the Genocide Convention. In addition, the United Nations General Assembly declared illegal, null, and void the Federal Republic of

Yugoslavia's "activities aimed at achieving the integration of the occupied territories of Croatia into the administrative, military, educational, transportation and communications systems" of the Federal Republic of Yugoslavia, called upon the Federal Republic of Yugoslavia to cease providing military and logistic support to the occupying Serbs, and specifically and forcefully condemned the ethnic cleansing by the Serbs that had taken place in the UNPAs. (AIRes149143 (9 December 1994).)

14. Since 1991, Croatia tried to solve Yugoslavia's aggression by negotiating a peaceful resolution, but Serbia denied this peaceful way. 4 years later, Croatia initiated "Operation Flash" as a counter-reaction to the Serb violation of the cease-fire in 1992 and the slaughter of Croatian civilians. The effect was simple, Croatia was able to regain 558 km<sup>2</sup> of their original territory.
15. In August 1995, The Croatian Government and the Serbs from the occupied regions met to find a peaceful solution to this violent nonsense, in which they tried to reintegrate the occupied areas. However, the Serbs declined all kinds of proposals, because they insisted on only uniting with areas, where the population is 100% Serb. This is evident enough to show how Mr. Slobodan Milosevic and his Serbia wanted to strive for the Greater Serbia. To counter this idea and stop the slaughtering of the people of Croatia, Croatia launched "Operation Storm" to regain control of Knin, Dalmatia, Lika, Kordun, and Bantja. Areas like Vukovar stayed under the illegal control of the Serbs.
16. Another attempt to still the bloodthirst of the Serbs was the assurance the Croatian National Parliament made:
  - a. "the Republic of Croatia guarantees to the Serbs in Croatia and to all national minorities which live on its territory the respect of all human and civil rights, and especially the freedom of expression and fostering of national language and culture, as well as political organization. The Republic of Croatia protects the rights and interests of its citizens regardless of religion, ethnicity, or race. . . . Serbs in Croatia and all the nationalities have the right to proportional participation in the local self-government bodies and respective bodies of state authority, as well as to the provision of economic and social development for the purpose of preservation of their identity and for the purpose of protection from any attempt of assimilation . . ."
17. To protect his idea of a Greater Serbia with only one ethnic group, Mr. Slobodan Milosevic actions, both in Kosovo in 1999 and Croatia in 1995, was to avoid and eliminate any and all situations, where Serbs would have enjoyed a standard and peaceful life in a multi-ethnic society. Otherwise, he would have lost his support and his "justification" for Belgrade's plans to create a Greater Serbia.

## Preliminary Statement

According to Article II of the "Convention on the Prevention and Punishment of the Crime of Genocide", Genocide is defined by any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, 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.

During the year of 1991-1995, the Federal Republic of Yugoslavia (today “Serbia and Montenegro”) desired to create a “Greater Serbia” through an “ethnic cleansing” in some regions of Croatia such as Knin, Dalmatia and Slavonia, causing the deaths of numerous Croatian citizens, displacing or torturing them and destroying their property. Even after attempting to establish peace measures between Croatia and Serbia by guaranteeing the safety to Croatian citizens of Serb ethnicity (and others) in Croatian regions (especially the Knin region), Serbia continued with an “ethnic cleansing”, further violating the Genocide Convention.

The Republic of Croatia clearly regards “ethnic cleansing” as a form of genocide and trusts in the ICJ to restore justice between Serbia and Croatia, as Croatia can no longer tolerate Serbia being unpunished for the crimes committed and harm caused during this conflict.

## Geographical Facts

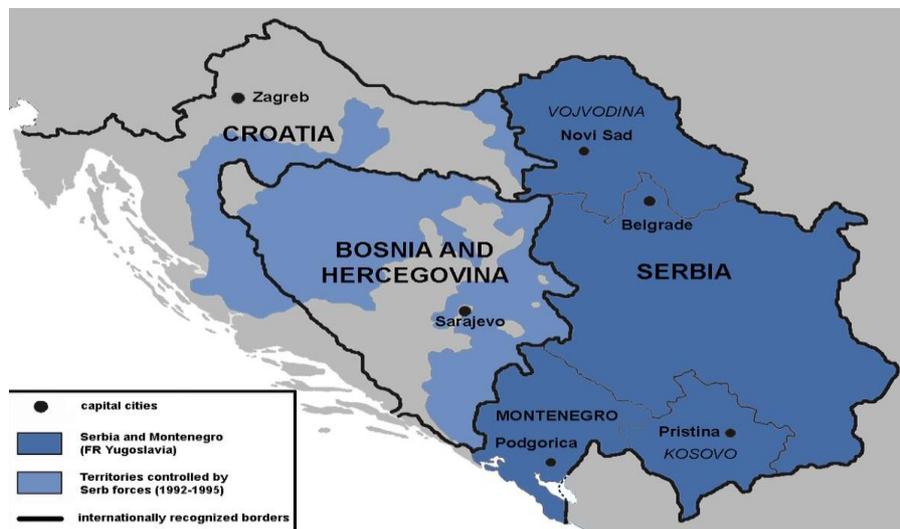
During the period of time after 1995, Croatia discovered 120 mass graves mostly in the Knin region, eastern Slavonia, Dalmatia and Banovina.

The marked locations show four of the biggest mass graves discovered on Croatian territory so far: Skabranja near Zadar (green), Vila Gavrilovic near Petrinja (brown), Bacin (blue) and Vukovar (red).



Map 2 shows territories in Croatia which were controlled by Serb forces during the years of 1992-1995. Through comparing map 2 with map 1, it is visible that the marked locations of

discovered mass graves match the areas which were controlled by Serb forces, hence making it evident that the Serbs must have executed a large number of people during that period of time.



## Legal Concepts

Solving this dispute is a top priority for the Republic of Croatia. The principles of law listed and explained below set out the Court's jurisdiction on the application of this case.

### Sources of international law

Article 9 of the Convention on the Prevention and Punishment of the Crime of Genocide addresses the jurisdiction of the Court if two nations are at dispute over the responsibility for genocide: *“Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”*

Article 38 (1&2) of the Rules of Court determine the format under which an application is applicable to the Court's jurisdiction, in accordance with Article 40 (1) of the Statute of the International Court of Justice.

Article 36 (1) of the Statute of the International Court of Justice lays down every treaty, document or law in force to be included into the Court's judgement: *“The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specifically provided for in the Charter of the United Nations or in treaties and conventions in force.”*

### Definitions of Legal Principles (Oxford Dictionary)

## **Jurisdiction**

The official power to make legal decisions and judgements.

## **Treaty**

A formally concluded and ratified agreement between states.

## Prayer to the Court

### Consequences and compensation

The Republic of Serbia is required to pay reparations to the people and their property, as well as to the Croatian economy, harmed or damaged during the conflict in a sum determined by the court;

The President of the Republic of Serbia will have to hold a speech in Vukovar, apologizing to all affected people in Croatia;

The Establishment of a treaty in order to prevent this conflict from repeating itself in the future.

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