

## CASE CONCERNING APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

### BOSNIA AND HERZEGOVINA v. YUGOSLAVIA (SERBIA AND MONTENEGRO)

#### **Background**

Yugoslavia used to be a federation that was created after World War I. After WWII, led by President Josip Broz Tito, Yugoslavia was formed by six countries: Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia. In 1980, after Tito's death, several nationalistic movements demanded a change in the Yugoslav federation and the option of independence came into the picture, mainly for Serbia.

With this new point of view, Slovenia was the first to win its independence in 1991. After the independence declaration of Slovenia, Croatia also asked to get out of the federation, but war lasted longer than in Slovenia because a great part of Croatia's population was Serbian.

When the dream of a united Yugoslavia came to an end, the nationalist Serbian leader, Slobodan Milosevic, and the Serbian Bosnian Radovan Karadzic decided that a project of a "Greater Serbia" was viable and that the motherland was there where a Serbian was living.

#### **"Ethnical Cleanse"**

The main difference between the previous wars in Yugoslavia and the one in Bosnia was that in Bosnia the ethnical territories were not clear and there was a great percentage of Serbians in the country, the solution? An ethnical cleanse.

The goal was to "clean" an area forcing the population of an ethnicity to leave their homes. If they resisted, they were tortured and killed. Cultural and religious symbols: temples and cemeteries were destroyed. The best known case was in Srebrenica where about 8,000 Muslims were killed.

#### **USEFUL ARTICLES**

Convention on the Prevention and Punishment of the Crime of Genocide

**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 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.

**Article III:** The following acts shall be punishable:

(a) Genocide; (b) Conspiracy to commit genocide; (c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide.

**Article IX:** 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.