**Guiding Package**

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**Oasis International School Model United Nations**

The International Court of Justice

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

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9. **SUMMARY OF THE CASE:**

On the 2nd of July 1999, the Republic of Croatia (hereinafter Croatia) filed an Application against the Federal Republic of Yugoslavia (hereinafter FRY) “for violations of the Convention on the Prevention and Punishment of the Crime of Genocide” (hereinafter the Genocide Convention). With the transformation of the Federal Republic of Yugoslavia into Serbia and Montenegro and the dissolution of the country in 2006, Serbia took the FRY’s position as the defendant considering that serbia is its legal successor.

The acts of genocide that were allegedly committed by the FRY were during the year 1992 falling during the Bosnian genocide commited in the years 1992 to 1995. The FRY has a rich history of allegedly committed genocide as it could be clearly seen from the fact stated above.

As the process went on, the Republic of Serbia filled a countersuit to the International Court of Justice (hereinafter ICJ) accusing Croatia of genocide on the 4th of January 2010. The counterclaim covers missing, killed and expelled civilians. The FRY claimed that at the time of the Second World War, the republic of Croatia prosecuted Serbs and held them in concentration camps were they were tortured and killed in ways that couldnt’ even be described. The Republic of Croatia was called hereinafter the “puppet state of Nazi Germany during the second World War”.

The crime of genocide consists of two elements, so in order to prove the commission of genocide, two elements need to occur in the incident, the first is the physical action known as *Actus Reus*. And the second, the presence of an intention to commit genocide known as *Mens Rea*. Both elements must be proven by both parties in order to be convicted and ruled upon as guilty of committing genocide.

1. **PARTIES INVOLVED:**
* Plaintiff: The Republic of Croatia (hereinafter Croatia)

 According to Croatia, during the armed conflict which erupted in 1991, the Republic of Serbia had violated the Convention on the Prevention and Punishment of the Crime of Genocide “By directly controlling the activity of its armed forces, intelligence agents and various paramilitary detachments, on the territory of the Republic of Croatia, in the Knin region , Eastern and Western Slavonia, and Dalmatia, the Federal Republic of Yugoslavia is liable for the “ethnic cleansing” of the Croatian citizens from these areas – 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 – and is required to provide reparation for the resultant damage”.

* Defendant: The Republic of Serbia (hereinafter Serbia)

Serbia as an independent state is being convicted with the FRY actions as it is its legal successor and is to answer all claims against its predecessor the FRY according to Article 60 of the constitutional charter of Serbia and Montenegro. As on the counterclaim, Serbia claims that Croatia committed similarly acts of genocide against the Serbs during the Second World Wars and is to be responsible for the past actions taken by its government at this time.

1. **STATEMENT OF FACTS:**
* Serbia filled a counter claim on the 4th of January 2010 convicting the Croatian of committing acts of genocide during the period of 1945;
* The Convention on the Prevention and Punishment of the Crime of Genocide took place after the second world war in 1948;
* Croatia and Serbia are both parties of the Convention on the Prevention and Punishment of the Crime of Genocide;
* Croatia ratified the Genocide Convention 12 October 1992;
* Serbia ratified the Genocide Convention 12 March 2001;
* After Yugolavia’s breakup, Serbia became it’s legal successor;
* Serbia began to have access to the court starting from 2004;
* Croatia’s claims were judged admissible as the ICJ ruled in favor of having jurisdiction in ruling in the case;
* The ICJ ruled in favor of Serbian as in having jurisdiction to rule in the matter of genocide allegedly committed by Croatia;
1. **KEY TERMS:**
* Genocide: genocide is the act of killing a large group of people, most of the time it’s committed towards people of a particular nation or ethnic group.
* Legal successor: a legal successor is, one who follows or comes into the place of another. Also called, succession of states, which is a theory and practice in international relations regarding the recognition of a newly created sovereign state by other states, based on a historical relationship the new state has with a prior state.
* Actus Reus: Actus Reus is the latin word for “guilty act”, meaning the physical element of genocide, hence specific events that constitute the elements of genocide.
* Mens Rea: Mens Rea is the latin word for “guilty mind”, meaning the mental element of a person's intention to commit a crime; or knowledge that one's action or lack of action would cause a crime to be committed.
1. **STATEMENT OF LAW:**
* Article 9 of Convention on the Prevention and Punishment of the Crime of Genocide
* Article 2 (3) of the Draft Code of Crimes against the Peace and Security of Mankind, Yearbook of the International Law Commission
* Article 60 of the constitutional charter of Serbia and Montenegro
1. **STATEMENT OF JURISDICTION:**
* Article 38, paragraph 1, of the Statute of the International Court of Justice
1. **USEFUL LINKS:**
* *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia) :* [*https://www.icj-cij.org/en/case/118*](https://www.icj-cij.org/en/case/118)
* *Convention on the Prevention and Punishment of the Crime of Genocide:* [*https://www.ohchr.org/en/professionalinterest/pages/crimeofgenocide.aspx*](https://www.ohchr.org/en/professionalinterest/pages/crimeofgenocide.aspx)
* *Application of the Genocide Convention (Croatia Vs. Serbia) :* [*https://pdfs.semanticscholar.org/d608/a56665bea280c1558fff4c1958dab1efb3e8.pdf*](https://pdfs.semanticscholar.org/d608/a56665bea280c1558fff4c1958dab1efb3e8.pdf)
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