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IN THE INTERNATIONAL COURT OF JUSTICE

SERBIA & MONTENEGRO VS. BOSNIA & HERZEGOVINA

MEMORIAL OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

COMES NOW the Federal Republic Of Yugoslavia and for their memorial to the Court states the following:

STATEMENT OF JURISDICTION

The Federal Republic of Yugoslavia would like to recall Article 36, paragraph 2, of the Statute of the International Court of Justice, which has been recognized by both Bosnia & Herzegovina and the FRY, which indicates that both countries recognize the jurisdiction of the Court. According to the ILC Articles of State Responsibility, if an action potentially constitutes a breach of an international obligation of the state, then it becomes the responsibility of the entire governing body and the FRY has the right and responsibility to defend any accusations of failing to meet these obligations.

STATEMENT OF LAW

1. The Federal Republic of Yugoslavia (FRY) and Bosnia & Herzegovina are both parties of the International Law Commission (ILC) Articles of State Responsibility. According to Article 4 of the aforementioned articles, the conduct of any state organ is to be considered an act of the state, therefore giving rise to the responsibility of the state if the conduct constitutes a breach of an international obligation of the state.

2. Bosnia & Herzegovina and the FRY both agree wholeheartedly with this, disagreements only arise when it comes to the definition of a state organ. The FRY believes that a state providing financial and other forms of aid to a group is not enough to consider them an organ of said state. For a group, in this case the Serbian forces, to be a state organ they have to be assigned specific powers, be a part of the whole governing body and be labelled as a specific government branch.

3. The latter does not apply as the FRY already has its own military while the Serbian forces do not fall under this branch nor are they a part of the governing body. There is no evidence to suggest that the army of the FRY took part in any of the massacres they are accused of. Additionally, and most importantly, no substantial evidence exists to prove that the Serbs were under the effective control of FRY while conducting the massacre at Srebrenica.

STATEMENT OF FACTS

The republics of Croatia, Macedonia, Bosnia & Herzegovina and Slovenia declared independence when the Socialist Federal Republic of Yugoslavia began to break up in the early 1990s.

This led Serbia and Montenegro to declare themselves the Federal Republic of Yugoslavia. Armed conflicts arose in 1992-1995 which eventually led to a massacre perpetrated by Serbian forces in a small village called Srebrenica within Bosnia & Herzegovina. The massacres were orchestrated almost entirely by General Ratko Mladić. The FRY has been called to court today by Bosnia & Herzegovina based on the theory that the FRY is responsible for the actions of the Serbian forces.

ARGUMENTS

I. The death toll during the Bosnian war didn't disproportionately affect the Bosniaks.

When looking at the estimated death tolls at the time, it is clear that there were immense casualties on both sides. The Serbian forces alone made up 30% of the war's over 102,000 casualties. Approximately 8,000 of those were the ones murdered at Srebrenica, which is less than 8% of the war's total casualties. Refer to evidence #4, based on a statement made by Cherif Bassiouni in 1994.

II. There is no evidence to suggest, beyond reasonable doubt, that the Serbian forces who took part in the conflict were organs of the Federal Republic of Yugoslavia.

No evidence shows that the Serbian forces were an organ of the FRY at the time of the massacre or in the status quo. The FRY army did not take part in the massacre and neither did any political leaders of the state. The FRY has made it clear that the Serbian forces were not under their effective control. Additional evidence can be found through one of our witnesses (Vera Doric).

III. Not all of those murdered in Srebrenica by the Serbian forces were Bosniaks.

As defined in the stipulations, a genocide must have the intent to destroy a specific national, ethnical, racial or religious group. Additionally, stipulation #5 states that those killed in Srebrenica weren't entirely muslim. If the Serbian forces had the intent to destroy, in whole or in part, the muslim population in the village, they would've solely targeted them. Instead, civilians of all religions and ethnic groups were targeted in the massacre. For this reason, it is reasonable to consider the fact that this may have simply been an attack on Bosnia & Herzegovina during the war as a whole, given that they were enemies at the time. Every village or community has a majority in terms of religion, race or nationality, but this doesn't in itself mean that killing members of said population is genocide.

SUMMARY AND PRAYER FOR RELIEF

The Federal Republic of Yugoslavia believes that they cannot be held responsible for an act they did not commit, even less so during times of warfare with substantial casualties on both sides. However, they do recognize that the Bosnian war was an immense tragedy and they did contribute in part to it through aid for certain groups. The FRY is prepared to pay reparations to the Bosnian communities directly affected by the Serbian forces equal to the aid they provided to the Serbs during the conflict. Additionally, the state will be further investigating the case and will make sure to put those involved in the massacre on trial through the International Criminal Tribunal for the former Yugoslavia

(ICTY), in particular General Ratko Mladić. They will fully respect the sovereignty of the opposing party and make strides towards preventing similar incidents from happening in the future. The FRY army will continue to maintain their reputation as an organ that has never committed such an atrocity.