

**CASES CONCERNING LEGALITY OF USE OF FORCE\***  
**(Yugoslavia v Belgium; Canada; France; Germany; Italy;  
Netherlands; Portugal; Spain; United Kingdom; United States)**

Although the International Court of Justice refused Yugoslavia's Applications for provisional protection against the ten respondents noted below in Orders delivered on 2 June 1999, the cases are still pending regarding the issue of the Court's jurisdiction to deal with the merits of the claims.

**BACKGROUND**

On 29 April 1999 Yugoslavia instituted proceedings before the International Court of Justice against Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom and United States. Yugoslavia accused them of participation in the NATO bombing of Yugoslav territory in violation of their obligations under international law and the Charter of the United Nations.

In its Applications, Yugoslavia maintained that the above ten states had committed "acts by which [they] have violated [their] international obligation[s] not to use force against another State, not to intervene in [that State's] internal affairs" and "not to violate [its] sovereignty", "the obligation to protect the civilian population and civilian objects in wartime, [and] to protect the environment; the obligation relating to free navigation on international rivers"; the obligation "regarding the fundamental rights and freedoms; and the obligation[s] not to use prohibited weapons [and] not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group".

At the same time Yugoslavia submitted requests for the indication of provisional measures. It asked the Court to order the states to "cease immediately [their] acts of force" and to "refrain from any act of the threat or use of force' against Yugoslavia.

Since the Bench did not include a judge of the nationality of Yugoslavia, that state appointed Kreca as Judge *ad hoc*.

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\* For a discussion of this case, see 33 et seq above.

Hearings on provisional measures were held on 10 to 12 May 1999 and the Court handed down its decision in each of the cases on 2 June 1999.

#### **THE ORDERS ON PROVISIONAL MEASURES OF PROTECTION**

In the cases against Spain and United States, the Court held that it manifestly lacked jurisdiction and ordered that the cases be removed from its List. In the other eight cases the Court found that it lacked *prima facie* jurisdiction, a prerequisite for the issue of provisional measures. As a result, the Court could not indicate such measures.

However, the Court stated that it remained seised of those cases and stressed that its findings "in no way prejudge[d] the question of the jurisdiction of the Court to deal with the merits" of the cases and left "unaffected the right of the Governments of Yugoslavia and [of the respondent States] to submit arguments in respect of those questions".