

LEGALITY OF THE USE OF FORCE

**(Yugoslavia v Belgium, Canada, France, Germany, Italy, Netherlands,
Portugal and United Kingdom)**

This case is still pending.

By Orders of 8 September 2000, Shi V-P fixed 5 April 2001 as the time-limit for the filing of the written statements on the preliminary objections raised by eight of the ten Respondent States in these cases, the other two being Spain and the United States. The subsequent procedure was reserved for further decision in each case.

The Respondent States had raised certain preliminary objections on 5 July 2000 stating that the Court had no jurisdiction to examine the merits of the cases and that Yugoslavia's claims were inadmissible. At a meeting held on 6 September 2000 between Shi V-P¹ and the Parties, Yugoslavia indicated that it would require nine months for the preparation of written statements of its observations and submissions on the preliminary objections. Although the Respondent States did not object to the time-limit being fixed, they stressed that they expected Yugoslavia to provide specific answers to the preliminary objections raised by them.

HISTORY OF THE PROCEEDINGS

On 29 April 1999, Yugoslavia instituted proceedings before the Court against the ten Respondent States identified above, accusing them of bombing Yugoslavia's territory in violation of their international obligations. In its Applications, Yugoslavia pointed out that the ten Respondent States had violated their international obligations towards Yugoslavia within the following contexts:

1. the ban on the use of force against another State;
2. non-intervention in the internal affairs of another State;
3. non-violation of another State's sovereignty;
4. the protection of the environment, the civilian population and civilian objects in wartime;

¹ Shi V-P had exercised the functions of the presidency in these eight cases because Guillaume P, a national of one of the Parties (France), had decided not to so act in any of the cases.

5. free navigation on international rivers;
6. the protection of fundamental human rights and freedoms;
7. not to use prohibited weapons; and
8. not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group.

Yugoslavia requested the Court to adjudge and declare *inter alia* that the Respondent States were “responsible for the violation of the above international obligations” and were therefore “obliged to provide compensation for the damage done”. On the same day, Yugoslavia filed in each case a request for interim measures of protection. Yugoslavia asked the Court to order the ten Respondent States to “cease immediately [their] acts of use of force” and “refrain from any act of threat or use of force against the Federal Republic of Yugoslavia”. The hearings on provisional measures were held on 10-12 May 1999 and the Court handed down its decision in each of the cases on 2 June 1999.

In two cases, *Yugoslavia v Spain* and *Yugoslavia v United States of America*, the Court concluded that it manifestly lacked jurisdiction. Accordingly, it ordered that the cases be removed from its List.

In the eight cases remaining,² the Court found that it lacked jurisdiction, a prerequisite for the indication of provisional measures. As a result, it could not indicate such measures. However, the Court stated that it remained seised of the cases and stressed that its findings, at this stage, “in no way prejudice[d] the question of the jurisdiction of the Court to deal with the merits” of the cases. The Court left “unaffected the right of the Governments of Yugoslavia and [of the respondent States] to submit arguments in respect of those questions”.

By Orders of 30 June 1999, the Court decided that Yugoslavia should submit a Memorial in each of the eight cases remaining no later than 5 January 2000. The Court decided also that the eight Respondent States should each submit a Counter-Memorial no later than 5 July 2000. Within the time-limits thus fixed, Yugoslavia filed its Memorials, following which the eight Respondent States raised preliminary objections to jurisdiction and admissibility.

² The cases were against Belgium, Canada, France, Germany, Italy, The Netherlands, Portugal and the United Kingdom.