III. CASE CONCERNING THE ARREST WARRANT OF 11 APRIL 2000 (*DEMOCRATIC REPUBLIC OF THE CONGO* v. *BELGIUM*)

AN initiating Application filed by the Democratic Republic of Congo (DRC) against Belgium on 17 October 2000[1] potentially raises similar issues to those raised by the *Pinochet* case,[2] namely the scope of "universal" jurisdiction in relation to serious international crimes against individuals (in this case "grave breaches of the 1949 Geneva Conventions and the 1977 Protocols thereto and crimes against humanity") and the question of immunity where State officials (in this case a Foreign Minister) are accused thereof. As such it may represent an opportunity for the Court to give an authoritative ruling on these highly controversial and sensitive issues of international law, which seem to be raised with increasingly regularity before national courts. However for now such a ruling is a matter for the future, as on 8 December 2000 the Court dismissed the DRC application for provisional measures, and thus made no comment on the substantive issues of the case. Instead it found that certain intervening factual developments had removed from the application for provisional measures the requisite elements of irreparable prejudice to the rights of the applicant and urgency, thus obviating any need for an Order to be made at this stage.

A. The Substance of the Case

At the heart of the case is a warrant issued by a Belgian Judge for the arrest of Yerodia Ndombasi for grave breaches of the Geneva Conventions and Additional Protocols I and II and crimes against humanity, alleged to have been committed in the course of the war in the DRC in 1998. In particular Ndombasi, who was at the time President Laurent Kabila's Principal Private Secretary, is accused of making broadcast speeches inciting racial hatred leading to the massacre of several hundred persons of Tutsi origin. The arrest warrant was issued on 11 April 2000, by which time Ndombasi had been appointed Minister of Foreign Affairs of DRC. In its initiating Application the DRC therefore sought the cancellation of the arrest warrant on two main grounds, first on the basis that it constituted an exorbitant assertion of jurisdiction and secondly that it constituted an infringement of the immunities which Ndombasi enjoyed as Foreign Minister.

* University of Nottingham.

1. Referred to as the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)*.

2. *R.* v. *Bow Street Metropolitan Stipendiary Magistrate and others, ex parte Pinochet Ugarte (No.3)* [1999] 2 W.L.R. 827.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

The DRC complaint on extraterritorial jurisdiction is broadly framed as a violation of the principle that a State may not exercise jurisdiction on the territory of another State and of the principle of sovereign equality of States (Article 2(1) of the UN Charter). This was developed more particularly by the DRC in argument on the provisional measures application, on the basis that even in the exceptional cases of treaty-based crimes for which quasi-universal jurisdiction is provided, such as "grave breaches" of the Geneva Conventions, such treaties still require that the accused is present on the territory of the prosecuting State before extraterritorial jurisdiction can be asserted.[3] The DRC argued that, in relation to Ndombasi, Belgium was in effect asserting an unlimited right to jurisdiction for which there was no legal basis.

The second ground of complaint, being the violation of Ndombasi's immunity, is framed in terms of a violation of Article 41(2) of the 1961 Vienna Convention on Diplomatic Relations. However in argument on provisional measures a broader basis of the immunities of a Foreign Minister in general international law was also canvassed.[4] The DRC argued that the violation of his immunity was effectively preventing Ndombasi from traveling outside DRC and thus also from carrying out the functions of a Foreign Minister recognised in international law.

To the extent that was necessary in response to the provisional measures application, Belgium sought to meet the DRC point on extraterritorial jurisdiction by establishing that Belgium was entitled to exercise the jurisdiction it had asserted on the basis of both treaty law under the Geneva Conventions and customary international law. In any event Belgium maintained that it was not asserting an unlimited jurisdiction but rather stressed that the Judge issuing the warrant had been properly seised by the Belgian Public Prosecutor and on the basis of complaints by various individuals who were either nationals or residents of Belgium. There was thus a significant connecting factor with Belgium.

In relation to the claim of violation of immunity, Belgium responded by showing that the Judge had taken into account the question of immunity when issuing the warrant and had made clear that if Ndombasi was visiting Belgium in his official capacity as Foreign Minister he would be entitled to immunity from arrest, or other coercive measures of enforcement jurisdiction. It was anticipated that other States would apply the law on immunity in similar fashion, though this was of course beyond the control of Belgium.

In the arguments on the provisional measures application, to the extent that substantive issues were raised, in broad political terms it might be said that the

3. It might be noted that in a number of cases such as the 1984 Torture Convention, and the various anti-terrorist and hijacking conventions, the article concerning jurisdiction is often formulated by naming, in the first paragraph, certain grounds of jurisdiction on familiar bases such as territoriality, nationality, place of registration of relevant vessels or aircraft, and even passive personality. Then the second paragraph of the relevant article will often provide that "each State shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him" to one of the States willing to exercise jurisdiction on one of the named bases contained in the first paragraph. Thus it is argued that jurisdiction does not quite amount to universal under such provisions as the presence of the accused on the territory of the prosecuting State is still required.

4. See the speech of Mr Lumu of 22 Nov. 2000, particularly in section 1.1 on respect for diplomatic immunity.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

DRC emphasised the breach of its sovereign rights.[5] In response Belgium asserted that its actions were on behalf of the international community, citing UN Security Council resolutions and other UN reports and stressing its acts as matters of international solidarity. Congo sought later to counter these arguments by allegations against Belgium of a political motivation for its acts and a lack of even-handedness in its criticisms of the warring parties in Congo.

B. The Application for Provisional Measures

The DRC sought an Order from the Court that Belgium should immediately discharge the arrest warrant, claiming that the necessary conditions for such a provisional measures order, namely (i) danger of irreparable damage to its rights and (ii) urgency, had been met. In particular the need for a Foreign Minister to travel freely abroad, particularly against the context of the war in DRC and the international diplomatic efforts to bring it to an end, was stressed.[6]

Belgium sought to refute the application for provisional measures on a number of grounds, though the main thrust of its arguments was the exceptional nature of the provisional measures jurisdiction of the Court, which enable it to restrain a State from doing what it claims it has a legal right to do without giving that State a full opportunity to make out its case. Belgium therefore urged caution on the Court, suggesting that it adopt a presumption against making an Order for provisional measures, and require that the applicant make a case for the necessity of such exceptional measures of relief. In the present case Belgium asserted that DRC had failed to do so, first by its failure to specify any *prima facie* ground for the Court to have jurisdiction over the dispute in its initiating Application. Although the DRC sought to remedy this by referring to the declarations both parties had made under the optional clause during the second round of pleadings, Belgium argued that only putting forward a basis of jurisdiction at that late stage was contrary to the principle of procedural fairness and the sound administration of justice, as found by the Court in its rulings of the previous year in the cases of *Yugoslavia* v. *Belgium* and *Yugoslavia* v. *Netherlands*.[7]

Secondly Belgium urged that the DRC had failed to put forward any right which was both the subject of the initiating Application, and required preservation by the indication of provisional measures. Instead the right which the DRC had put forward was a right of the Foreign Minister to travel abroad on Government business, which was not a right as such, but rather depended upon the consent of the receiving State. Further even if such a right could be said to exist it was a distinct right from any rights in issue under the initiating Application. It was thus inappropriate as the subject of an indication of provisional measures.[8]

5. E.g. see the pleading of Jacques Vergès of 20 Nov. 2000 "... no sovereign state can agree the composition of its government should be dictated to it by a foreign power".

6. See the speech of Mr Lumu on 22 Nov. 2000, in particular in section 2 on the jurisdiction of the Court and the urgency of provisional measures.

7. See Provisional Measures Orders of 2 June 1999 in the cases concerning *Legality of the Use of Force (Yugoslavia* v. *Belgium)* and (*Yugoslavia* v. *Netherlands*)—for commentary see C.Gray (2000) 49 I.C.L.Q. 730.

8. See *Legal Status of South-Eastern Greenland*, Order of 3 Aug. 1932, PCIJ Ser.A/B No. 48.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

Alternatively if the right to be preserved was that of immunity, Belgium argued: (a) that the allegations in the main proceedings were of a past violation of immunity, whereas the provisional measures application sought to restrain future conduct of Belgium, and therefore the Court should refuse the application;[9] (b) that it is questionable whether there is a right to immunity in relation to war crimes and crimes against humanity; and (c) that the arrest warrant took account of the claims Ndombasi might have to immunity from the enforcement jurisdiction of Belgium.

Thirdly Belgium challenged the DRC claim that irreparable harm flowed from the issue of the warrant, again stressing the exceptional nature of provisional measures and the high threshold standard that must be reached. There was not in this case a threat to life and limb as there had been in other recent cases which had reached the required threshold. Indeed Belgium argued that there had been little prejudice whatsoever, alleging that Ndombasi had undertaken a number of official international visits since the issue of the warrant. Fourthly Belgium challenged the claim of urgency on the basis that the arrest warrant had been issued over six months ago and the DRC had known about it for at least three months prior to commencing proceedings. Fifthly Belgium argued that the claim for immediate cancellation of the arrest warrant which DRC sought in its initiating application was also exactly the relief sought in the provisional measures application. As such what the DRC was seeking was essentially an "interim judgment" contrary to the nature of provisional measures procedure and the jurisprudence of the Court.[10] Finally by analogy with the Court's findings on provisional measures in the *Lockerbie* cases,[11] Belgium argued that the involvement of the Security Council and the wider United Nations in the DRC in context against which the arrest warrant was issued, and in particular a Security Council Resolution *inter alia* calling on all parties to refrain from assisting those suspected of involvement in genocide, crimes against humanity and war crimes and to bring those responsible to justice, suggested that this was not a case in which provisional measures were appropriate.

C. The Cabinet Reshuffle

However what eventually proved to be of greatest significance was a factual event which took place during the currency of the proceedings: between the first and second days of oral pleadings before the Court, a Cabinet reshuffle occurred in the DRC and Ndombasi was transferred from the Foreign Ministry to the Ministry of Education. The Court asked the Parties to address what difference this fact made to their pleadings. Unsurprisingly the DRC claimed it made little difference to their pleadings, claiming that an Education Minister would also need to travel freely abroad on official business. Belgium on the other hand submitted that the

9. In accordance with the findings of the PCIJ in *Polish Agrarian Reform and the German Minority, Order of 29 July 1933, PCIJ, Series A/B No. 58.*

10. See *Factory at Chorzow, Order of 21 Nov. 1927, PCIJ, Series A, No. 12,* at p. 10.

11. *Order of 14 April 1992,* 1992 *ICJ Rep.* p. 3.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

initiating Application was founded on the fact of Ndombasi's status as Foreign Minister and that therefore the Application had now become moot and so should be removed from the Court's List.

THE FINDINGS OF THE COURT

The Court first of all rejected Belgium's contention that the case be removed from the List as a result of the Cabinet reshuffle. It found that the application had not been deprived of its object since the arrest warrant was still in place and the DRC maintained that Ndombasi enjoyed similar immunities in his new status as Minister of Education.[12]

Perhaps more controversially[13] the Court found that the DRC's failure to plead a specific basis for the Court's jurisdiction until the second round of oral pleadings was not fatal to its application for provisional measures. Though only pleaded as the jurisdictional basis of the Application in the second round of oral pleadings on provisional measures, the Court found that the optional clause declarations of both parties were sufficient as a *prima facie* jurisdictional basis for the provisional measures application.[14] This appears to be in marked contrast to the Court's approach in the *Yugoslavia* v. *Belgium* case. However, the Court justified this departure in the present case on the basis that Belgium would have known of the DRC declaration under the optional clause and was thus in a position to prepare for arguments against claims put forward by the DRC on this basis.[15]

The Court declined to indicate the provisional measures sought by the DRC, on the grounds that following the Cabinet reshuffle Ndombasi, as Minister of Education, would have less frequent requirement of foreign travel, and that therefore the requirements of irreparable damage and urgency could not be made out. However, the Court found it desirable that the issues should be determined as soon as possible and that therefore it was appropriate to ensure that a decision on the merits of the DRC initiating Application be made with all expedition.[16] As a manifestation of this last finding an expedited timetable for pleadings was set shortly after the decision on provisional measures, by which objections to jurisdiction and admissibility would be heard alongside the merits, and a tight timetable of initially one pleading per party, was set.[17] It might be interpreted that the Court looks forward to the prospect of determining the complicated and important questions raised by the merits of the dispute with some relish. However whether the case will reach that stage remains to be seen and, in the meantime, its

12. See Order of 12 Dec. 2000, at para. 60. It might be noted that Judge Oda expressed certain reservations on this finding.

13. See in this respect the Separate Opinion of Judge Parra-Aranguren.

14. See Order of 8 Dec. 2000, at para. 68.

15. *Ibid.*, at para. 63.

16. *Ibid.*, at para. 76. For doubts on the necessity for this see Separate Opinion of Judge Oda.

17. The DRC Memorial was ordered to be filed within three months, and the Belgian counter-Memorial was to be filed three months thereafter, though these time limits were later extended. (For further details, see below, p.680.)

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

necessarily limited findings on the provisional measures application give little away as to what it may eventually decide.

CHANAKA WICKREMASINGHE*

II. CASES BEFORE THE COURT†

1. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (*Libyan Arab Jamahiriya* v. *United Kingdom*).

Libya instituted proceedings against the United Kingdom and the United States on 3 March 1992, arguing that it was entitled under the Montreal Convention to try those suspected of the destruction of Pan Am Flight 103 over Lockerbie itself and requested an award of provisional measures to prevent further action to compel their surrender pending the outcome of the case. In its orders of 14 April 1992[1] the Court declined to do so. In orders of 19 June 1992[2] the following time limits were set for the submission of written pleadings: Libya, memorial, 20 December 1993; United Kingdom and the United States, counter-memorials, 20 June 1995. Preliminary objections were filed by the United Kingdom and the United States on 16 and 20 June 1995 respectively but in its judgments of 27 February 1998[3] the Court found it did have jurisdiction and that the application was admissible. In orders of 30 March 1998[4] the time limit for the filing of counter-memorials by the United Kingdom and the United States was set as 30 December 1998 but by orders of 17 December 1998[5] this was extended to 31 March 1999. In an order of 29 June 1999[6] the Court fixed 29 June 2000 as the time limit for the filing of a reply by Libya and in an order of 6 September 2000[7] the Court fixed 3 August 2001 as the time limit for the filing of a rejoinder by the United Kingdom and the United States.

2. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (*Libyan Arab Jamahiriya* v. *United States of America*).

See previous entry.

3. Oil Platforms (*Islamic Republic of Iran* v. *United States of America*).

Iran instituted proceedings against the United States on 2 November 1992 with respect to the destruction of Iranian oil platforms, allegedly in breach of the 1955

* University of Bristol. I should like to thank Daniel Bethlehem for some helpful conversations during the course of the preparation of this note: however all views expressed and any errors are entirely my own responsibility.

† As at 30 April 2001.

1. I.C.J. Rep. 1992, 3, 14. See F. Beveridge, "The Lockerbie Affair", (1992) 41 I.C.L.Q. 907.
2. I.C.J. Rep. 1992, 231, 234.
3. See F. Beveridge, Case Note, (1999) 48 I.C.L.Q. 658.
4. I.C.J. Rep. 1998, 237, 240.
5. I.C.J. Rep. 1998, 749.
6. I.C.J. Press Communiqué No. 99/36.
7. I.C.J. Press Communiqué No. 2000/27.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

Treaty of Amity, Economic Relations and Consular Rights. By an order of 4 December 1992[8] the following time limits were set for the submission of written pleadings: Iran, memorial 31 May 1993; United States, counter-memorial, 30 November 1993. These were extended by an order of 3 June 1993[9] to: Iran, memorial, 8 June 1993; United States, counter-memorial, 16 December 1993. On 16 December 1993 the United States filed preliminary objections. In its judgment of 12 December 1996[10] the Court found that it had jurisdiction to entertain the claims [11] and, by an order of 16 December 1996,[12] fixed 23 June 1997 as the date for the submission of the United State's counter-memorial. The counter-memorial, submitted on 23 June 1997, contained a counter-claim against Iran and, in an order of 19 March 1998,[13] the Court held this to be admissible and that it formed a part of the current proceedings. The following time limits were set for the written pleadings on the merits: Iran, reply, 10 September 1998; United States, rejoinder, 23 November 1999. By an order of 26 May 1998[14] these were extended to: Iran, reply, 10 December 1998; United States, rejoinder, 23 May 2000. By an order of 8 December 1998[15] they were further extended to: Iran, reply, 10 March 1999; United States, rejoinder, 23 November 2000. By an order of 4 September 2000[16] the time limit for the filing of the US rejoinder was further extended, to 23 March 2001.

4. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina* v. *Yugoslavia*).

The Republic of Bosnia and Herzegovina instituted proceedings against Yugoslavia on 20 March 1993 alleging violations of the 1949 Genocide Convention and requesting an indication of provisional measures which was made in an order of 8 April 1993.[17] This was reaffirmed in an order of 13 September 1993,[18] following a second request for provisional measures made by Bosnia and Herzegovina on 27 July 1993 and a request made by Yugoslavia on 10 August 1993.[19] By an order of 16 April 1993[20] the following time limits were set for the filing of the written pleadings: Bosnia and Herzegovina, memorial, 15 October 1993; Yugoslavia, counter-memorial, 15 April 1994. By an order of 7 October 1993[21] these were extended to: Bosnia and Herzegovina, memorial, 15 April 1994; Yugoslavia, counter-memorial, 15 April 1995 and, by order of 21 March 1995,[22] the date for the submission of the Yugoslavian counter-memorial was again extended to 30 June 1995. On 26 June 1995 Yugoslavia submitted preliminary objections which were rejected by the Court in its order of 11 July 1996.[23] By an order of 23 July 1996[24] the time limit for filing the Yugoslav counter-memorial was fixed as 23 July 1997. The counter-memorial was filed on 22 July 1997 and contained counter-claims against Bosnia and Herzegovina and, in an

8. I.C.J. Rep. 1992, 763.
9. I.C.J. Rep. 1993, 35.
10. I.C.J. Rep. 1996, 803.
11. See M. D. Evans, Case Note, (1997) 46 I.C.L.Q. 693.
12. I.C.J. Rep. 1996, 902.
13. I.C.J. Rep. 1998, 190.
14. I.C.J. Rep. 1998, 269.
15. I.C.J. Rep. 1998, 740.
16. I.C.J. Press Communiqué No. 2000/26.
17. I.C.J. Rep. 1993, 3.
18. I.C.J. Rep. 1993, 325.
19. See C. Gray, Case Note, (1994) 43 I.C.L.Q. 705.
20. I.C.J. Rep. 1993, 29.
21. I.C.J. Rep. 1993, 470.
22. I.C.J. Rep. 1995, 80.
23. I.C.J. Rep. 1996, 595. See C. Gray, Case Note, (1997) 46 I.C.L.Q. 688.
24. I.C.J. Rep. 1996, 797.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

order of 17 December 1997,[25] the Court held them to be admissible and that they formed a part of the current proceedings. The following time limits were set for the written pleadings on the merits: Bosnia and Herzegovina, reply, 23 January,1998; Yugoslavia, rejoinder, 23 July 1998. By an order of 22 January 1998[26] these were extended to Bosnia and Herzegovina, reply, 23 April 1998; Yugoslavia, rejoinder, 22 January 1999. By an order of 11 December 1998[27] the time limit for the submission of the Yugoslav rejoinder was further extended, to 22 February 1999.

5. Gabčikovo-Nagymaros Project (*Hungary/Slovakia*).

On 2 July 1993, in pursuance of a Special Agreement of 7 April 1993, Hungary and Slovakia requested the Court to determine certain issues arising out of the implementation and termination of a 1977 Agreement on the construction and operation of the Gabčikovo-Nagymaros barrage system. In its judgment of 25 September 1997[28] the Court found both States to be in breach of their obligations and called on them to negotiate a settlement in good faith.[29] On 3 September 1998 Slovakia filed a request for an additional judgment, arguing that Hungary was unwilling to implement to judgment[30] and it was subsequently agreed that Hungary would file a written statement of its position regarding this request by 7 December 1998.[31]

6. Land and Maritime Boundary between Cameroon and Nigeria (*Cameroon* v. *Nigeria*).

Cameroon instituted proceedings against Nigeria on 29 March 1994 in a dispute concerning sovereignty over the Bakasi Peninsula and over their maritime frontier and, by an additional application on 6 June 1994, requested the Court to determine the frontier between the two States from Lake Chad to the sea, order withdrawal of Nigerian troops from Cameroonian territory and determine reparations. By an order of 16 June 1994[32] the following time-limits were set for the submission of written pleadings: Cameroon, memorial, 16 March 1995; Nigeria, counter-memorial, 18 December 1995. On 13 December 1995 Nigeria raised objections to the jurisdiction of the Court and the admissibility of the claims. On 12 February 1996 Cameroon made a request for an award of provisional measures. The Court made an order concerning an award of provisional measures on 15 March 1996[33] and in its judgment of 11 June 1998[34] ruled that it had jurisdiction and found the claim admissible.[35] In an order of 30 June 1998[36] the time limit for the filing of the Nigerian counter-memorial was fixed as 31 March 1999 but by an order of 3 March 1999[37] this was extended to 31 May 1999. The Nigerian counter-memorial contained a number of counter-claims against Cameroon and, in an order of 30 June 1999,[38] the Court held them to be

25. I.C.J. Rep. 1997, 243.
26. I.C.J. Rep. 1998, 3.
27. I.C.J. Rep. 1998, 743.
28. I.C.J. Rep. 1997, 7.
29. See P. N. Okowa, Case Note, (1998) 47 I.C.L.Q. 688.
30. I.C.J. Press Communiqué No. 98/28
31. I.C.J. Press Communiqué No. 98/31.
32. I.C.J. Rep. 1994, 105.
33. I.C.J. Rep. 1996, 13. See J. G. Merrills, Case Note, (1997) 46 I.C.L.Q. 676.
34. I.C.J. Rep. 1998, 275.
35. See J. G. Merrills, Case Note, (1999) 48 I.C.L.Q. 651.
36. I.C.J. Rep. 1998, 275.
37. I.C.J. Rep. 1998, 420.
38. I.C.J. Rep. 1999, 24.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

admissible and that they formed a part of the current proceedings. That order also set the following time limits for the submission of written pleadings on the merits: Cameroon, reply, 4 April 2000; Nigeria, rejoinder, 4 July 2001. By an order of 20 February 2001[39] the Court then authorised the filing of an additional written pleading by Cameroon relating solely to the Nigerian counter-claims, to be filed by 4 July 2001. Meanwhile, on 29 October1998 Nigeria made a request for an interpretation of the Court's judgment of 11 June 1998, which was declared inadmissible in the Court's judgment of 25 March 1999.[40] On 30 June 1999 Equatorial Guinea filed an application to intervene which was authorised by the Court in its order of 21 October 1999.[41]

7. Sovereignty over Palau Ligitan and Pulua Sipadan (*Indonesia/Malaysia*).

On 2 November 1998, in pursuance of a Special Agreement dated 31 May 1997 (in force 14 May 1998), Indonesia and Malaysia seised the Court of their dispute concerning the sovereignty of the above named islands. By an order of 10 November 1998,[42] the following time limits were set for the submission of written pleadings by both parties: memorials, 2 November 1999, counter-memorials, 2 March 2000. By an order of 14 September 1999[43] the time limit for the filing of the counter-memorials was extended to 2 July 2000 and by an order of 12 May 2000[44] this was further extended to 2 August 2000. By an order of 19 October 2000[45] the date for the submission of a reply by both parties was fixed as 2 March 2001. On 13 March 2001 the Philippines filed an application to intervene and the Court fixed 2 May 2001 as the time limit for Indonesia and Malaysia to file their written observations.[46]

8. Ahmadou Sadio Diallo (*Republic of Guinea* v. *Democratic Republic of the Congo*).

Guinea instituted proceedings against the Democratic Republic of Congo on 28 December 1998 alleging grave breaches of international law perpetrated upon a national of Guinea. By an order of 25 November 1999[47] the following time limits were set for the submission of written pleadings: Republic of Guinea, memorial, 11 September 2000; Democratic Republic of the Congo, counter-memorial, 11 September 2001. By an order of 8 September 2000[48] these were extended to: Republic of Guinea, memorial, 23 March 2001; Democratic Republic of the Congo, counter-memorial, 4 October 2002.

9. LeGrand (*Germany* v. *United States of America*).

Germany instituted proceedings against the United States on 2 March 1999, alleging violations of the 1963 Vienna Convention on Consular Relations with respect to two German nationals convicted of murder in Arizona. The Court issued an order for

39. I.C.J. Press Communiqué No. 2001/4.
40. I.C.J. Rep. 1999, 31. See J. G. Merrills, Case Note, (1999) 48 I.C.L.Q. 651 at 657–658.
41. I.C.J. Press Communiqué No. 99/44. See J. G. Merrills, Case Note, (2000) 49 I.C.L.Q. 720.
42. I.C.J. Rep. 1998, 429.
43. I.C.J. Press Communiqué No. 99/40.
44. I.C.J. Press Communiqué No. 2000/14.
45. I.C.J. Press Communiqué No. 2000/33.
46. I.C.J. Press Communiqué No. 2001/7.
47. I.C.J. Press Communiqué No. 99/49.
48. I.C.J. Press Communiqué No. 2000/28.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

provisional measures on 3 March 1999.[49] In an order of 5 March 1999[50] the following time limits were set for the submission of written pleadings: Germany, memorial, 16 September 1999; United States, counter-memorial, 27 March 2000. Oral hearings were held from 13–17 November 2000[51] and the Judgment is awaited.

10. Legality of Use of Force (*Yugoslavia* v. *Belgium*).

Yugoslavia instituted proceedings against Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal, Spain, the United Kingdom and the United States of America on 29 April 1999, alleging that they had been involved in the bombing of Yugoslav territory in violation of their obligations not to use force against another State and requested an award of provisional measures calling upon them to cease doing so. In its orders of 2 June 1999[52] the Court declined to do so and struck the applications against Spain and the United States of America from its list.[53] In orders of 30 June 1999[54] the following time limits were set by the Court for the submission of written pleadings: Yugoslavia, memorial, 5 January 2000; respondent States, counter-memorials, 5 July 2000. On 5 July 2000[55] the respondent States filed preliminary objections to the jurisdiction of the Court and the admissibility of the application and in an order of 8 September 2000[56] the Court fixed 5 April 2000 as the time limit for the submission of written observations by Yugoslavia. In an order of 21 February 2001[57] this was extended to 5 April 2002.

11. Legality of Use of Force (*Yugoslavia* v. *Canada*).

See previous entry.

12. Legality of Use of Force (*Yugoslavia* v. *France*).

See previous entry.

13. Legality of Use of Force (*Yugoslavia* v. *Germany*).

See previous entry.

14. Legality of Use of Force (*Yugoslavia* v. *Italy*).

See previous entry.

15. Legality of Use of Force (*Yugoslavia* v. *Netherlands*).

See previous entry.

49. I.C.J. Rep. 1999, 9. See M. K. Addo, Case Note, (1999) 58 I.C.L.Q. 673.
50. I.C.J. Rep. 1999, 28.
51. I.C.J. Press Communiqué No. 2000/38.
52. I.C.J. Press Communiqué No. 99/39.
53. See C. Gray, Case Note, Case Note, (2000) 49 I.C.L.Q. 730.
54. I.C.J. Press Communiqué No. 99/33.
55. I.C.J. Press Communiqué No. 2000/25
56. I.C.J. Press Communiqué No. 2000/29.
57. I.C.J. Press Communiqué No. 2001/5.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

16. Legality of Use of Force (*Yugoslavia* v. *Portugal*).

See previous entry.

17. Legality of Use of Force (*Yugoslavia* v. *United Kingdom*).

See previous entry.

18. Armed activities on the territory of the Congo (*Democratic Republic of the Congo* v. *Uganda*).

The Democratic Republic of the Congo (DRC) instituted proceedings against Burundi, Uganda and Rwanda on account of "acts of armed aggression". In an order of 21 October 1999[58] the following time limits were set for the submission of written proceedings on the merits of the dispute: DRC, memorial, 21 July 2000; Uganda, counter-memorial, 21 April 2001. On 19 June 2000 the DRC made a request for an award of provisional measures which was made by the Court in its order of 1 July 2000.[59]

19. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Croatia* v. *Yugoslavia*).

Croatia instituted proceedings against Yugoslavia on 2 July 1999, alleging violations of the 1949 Genocide Convention and seeking reparations. In an order of 14 September 1999[60] the following time limits were set for the submission of written pleadings: Croatia, memorial, 14 March 2000; Yugoslavia, counter-memorial, 14 September 2000. In an order of 10 March 2000[61] these were extended to: Croatia, memorial, 14 September 2000, Yugoslavia, counter-memorial, 14 September 2001. By an order of 27 June 2000[62] these were further extended to: Croatia, memorial, 14 March 2001; Yugoslavia, counter-memorial, 16 September 2002.

20. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (*Nicaragua* v. *Honduras*).

Nicaragua instituted proceedings against Honduras on 8 December 1999 regarding a dispute concerning the delimitation of maritime zones between them in the Caribbean Sea and requesting that the Court determine the course of a single maritime boundary between their respective areas of territorial sea, continental shelf and exclusive economic zone. In an order of 21 March 2000[63] the following time limits

58. I.C.J. Press Communiqué No. 99/45.
59. I.C.J. Press Communiqué No. 2000/24 and see D. Kritsiotis, above, p.662.
60. I.C.J. Press Communiqué No. 99/41.
61. I.C.J. Rep. 2000, 3.
62. I.C.J. Press Communiqué No. 2000/21
63. I.C.J. Rep. 2000, 6.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

were set for the submission of written pleadings: Nicaragua, memorial, 21 March 2001; Honduras, counter-memorial, 21 March 2002.

21. Arrest Warrant of 11 April 2000 (*Democratic Republic of the Congo* v. *Belgium*).

The Democratic Republic of the Congo instituted proceedings against Belgium on 17 October 2000 regarding an international arrest warrant issued by a Belgian examining judge against the DRC's acting Minister of Foreign Affairs and made a request for an award of provisional measures.[64] In an order of 8 December 2000 the Court rejected the Belgian request that the case be removed from the list but found that the circumstances did not warrant the making of an award.[65] By an order of 13 December 2000[66] the following time limits were set for the filing of written proceedings: DRC, memorial, 15 March 2001; Belgium, counter-memorial, 31 May 2000. By an order of 14 March 2001[67] these were extended to: DRC 17 April 2001; Belgium 31 July 2001. By an order of 12 April 2001[68] these were further extended to: DRC Memorial, 17 May 2001; Belgium, Counter-Memorial, 17 September 2001.

22. Application for Revision of the Judgment of 11 July 1996 in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina* v. *Yugoslavia*, Preliminary Objections (*Yugoslavia* v. *Bosnia and Herzegovina*).

The Federal Republic of Yugoslavia (FRY) filed an Application for revision of the Preliminary Objections Judgment on the above mentioned case on 24 April 2001, contending that this was necessitated by it now being clear that prior to 1 November 2000 (when it was admitted as a new Member of the United Nations) the FRY had not continued the legal personality of the Socialist Federal Republic of Yugoslavia, was not a member of the United Nations and was not a State party to either the Statute of the Court or the Genocide Convention.[69]

III. OTHER DEVELOPMENTS

1. Rules of Procedure Article 79 (Preliminary Objections) and Article 80 (Counter-Claims) and the Note containing recommendations to parties to new cases have been amended as of 1 February 2001 to take effect for all new cases submitted thereafter. The amendments aim at shortening the duration of preliminary objections and to clarify and better reflect current practice. Amongst the changes is the requirement that objections to the jurisdiction of the Court or to the admissibility of the application be raised within three months of the delivery of the memorial and that the time limit for the submission of written observations on the objections be generally no longer than four months.[70]

64. I.C.J. Press Communiqué No. 2000/32.
65. I.C.J. Press Communiqué No. 2000/40. See C. L. Wickremasinghe, above, p.670.
66. I.C.J. Press Communiqué No. 2000/41.
67. I.C.J. Press Communiqué No. 2001/8.
68. I.C.J. Press Communiqué No. 2001/11.
69. I.C.J. Press Communiqué No. 2001/12.
70. I.C.J. Press Communiqué No. 2001/1.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press

2. Armed activities on the territory of the Congo (*Democratic Republic of the Congo* v. *Burundi*); (*Democratic Republic of the Congo* v. *Rwanda*): these cases were discontinued and removed from the list at the request of the DRC. See orders of 30 January 2001.[71]

3. On 16 March 2001 the Court gave Judgment in the case concerning Maritime Delimitation and Territorial Questions Between Qatar and Bahrain (*Qatar* v. *Bahrain)*.[72]

71. I.C.J. Press Communiqué No. 2001/2.
72. I.C.J. Press Communiqué No. 2001/9.

https://doi.org/10.1017/S0020589300065416 Published online by Cambridge University Press