

## PART FOUR

### Legal questions



Chapter I

# International Court of Justice

In 2015, the International C





further guidance referred to in the joint communiqué of 19 March 2015.

By an order dated 10 December 2015, the President of the Court extended to 28 April 2016 the time limit for the filing, by the parties, of their memorials on the question of reparations.

### Application of the Convention on the Prevention and Punishment of the Crime of Genocide (C.R. 1948.VI)

On 2 July 1999 [YUN 1999, p. 1210], Croatia instituted proceedings before the Court against Serbia, then known as the Federal Republic of Yugoslavia, for alleged violations of art. 25.6 (h)6.91v.1 (p)(l)- 11 on 11 June 1999.

IX of the Genocide Convention, to entertain Croatia's application, adding that Serbia's second preliminary objection did not possess an exclusively preliminary character. It then rejected the third preliminary objection submitted by Serbia.

By an order of 20 January 2009 [YUN 2009, p. 1270], the President of the Court fixed 22 March 2010 as the time limit for the filing of the counter-memorial by Serbia. At pleading, containing counterclaims, was filed within the time limit.

By an order of 4 February 2010 [YUN 2010, p. 1276], the Court directed the submission of a reply by Croatia and a rejoinder by Serbia concerning the claims presented by the parties. It fixed 20 December 2010 and 4 November 2011, respectively, as the time limits for the filing of those pleadings, which were filed within the time limits.

By an order of 23 January 2012 [YUN 2012, p. 1256], the Court authorized the submission by Croatia of an additional pleading relating solely to Serbia's counterclaims, and fixed 30 August 2012 as the time limit for the filing; the pleading was filed within the time limit.

Public hearings on Serbia's objection and on the merits of the case were held from 3 March to 1 April 2014 [YUN 2014, p. 1470]. At the close of the hearings, the parties presented their final submissions to the Court. Croatia requested the Court to adjudge and declare that the Court had jurisdiction over all the claims raised by Croatia and that the claims were admissible; that Serbia had breached its obligations under the Genocide Convention by failing to prevent acts of genocide committed on the territory of Croatia against the Croat ethnic group by persons for whose conduct Serbia was responsible; bring to trial those suspected of involvement in such acts; and to conduct an effective investigation into the fate of Croatian citizens missing as a result of such acts. Croatia further requested the Court to adjudge and declare that as a consequence of those breaches, Serbia was under obligation to take immediate and effective steps to submit to trial those persons within its jurisdiction suspected of having committed acts of genocide; provide Croatia with information about Croatian citizens missing as a result of such acts and conduct joint investigation to determine their whereabouts; return to Croatia all items of cultural significance within Serbia's jurisdiction or control seized in the course of the acts of genocide; and make reparations to Croatia for damages to persons and property, as well as to the Croatian economy caused by those violations of international law via a sum to be determined by the Court.

In addition, Croatia asked the Court to reject as not founded in fact or law Serbia's counterclaims relating to the breaches of international law by Croatia (see below).

Serbia requested the Court to adjudge and declare that the Court lacked jurisdiction to entertain Cro-









tion filed by Bolivia. Appended to the judgment were declarations by two judges; a separate opinion by one judge; and a dissenting opinion by one judge ad hoc.

By an order of 24 September 2015, the Court fixed 25 July 2016 as the new time limit for the filing of a counter-memorial by Chile.

### Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia)

from Nicaragua's coast and that Colombia objected to continental shelf claims in that area.

As the basis for the Court's jurisdiction, Nicaragua invoked article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá), noting that it was constrained into taking action rather sooner than later because Colombia had denounced the Pact of Bogotá on 27 November 2012, with effect from 27 November 2013 in accordance with article LVI of the Pact, which would accordingly remain in force for Colombia until that date. Nicaragua also contended that the subject-matter of its application remained within the Court's jurisdiction established in the case concerning the *Delimitation of the Maritime Boundary in the Caribbean Sea (Nicaragua v. Colombia)*, instituted in 2001 [YUN 2001, p. 1195], as in its 2012 judgment the Court did not definitively determine the delimitation of the continental shelf between Nicaragua and Colombia in the area beyond 200 nautical miles from the Nicaraguan coast.

By its order of 9 December 2013 [YUN 2013, p. 1278], the Court fixed 9 December 2014 and 9 December 2015 as the respective time limits for the filing of a memorial by Nicaragua and a counter-memorial by Colombia.

On 14 August 2014, Colombia, referring to article 79 of the Rules of Court, raised certain preliminary objections to the jurisdiction of the Court and to the admissibility of the application. In accordance with paragraph 5 of the same article, the proceedings on the merits were then suspended.

By an order of 19 September 2014 [YUN 2014, p. 1477], the Court fixed 19 January 2015 as the time limit for the filing by Nicaragua of a written statement of its observations and submissions on the preliminary objections raised by Colombia. The written statement by Nicaragua was filed within the time limit. By a letter dated 17 February 2015, Chile, referring to article 53, paragraph 1, of the Rules of Court, asked to be furnished with copies of the pleadings and documents annexed in the case. In accordance with the same article, the Court, after ascertaining the views of the parties, granted that request.

The public hearings on the preliminary objections raised by Colombia were held between 5 and 9 October 2015.

### Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)

On 26 November 2013 [YUN 2013, p. 1278], Nicaragua instituted proceedings against Colombia with regard to violations of Nicaragua's sovereign rights and maritime zones as declared by the Court's judgment of 19 November 2012 [YUN 2012, p. 1257] in the case concerning the *Delimitation of the Maritime Boundary in the Caribbean Sea (Nicaragua v. Colombia)*, and the threat of the use of force by Colombia in order to implement those violations.

jurisdiction rested in its inherent power to pronounce on the actions required by its judgments.

By an order of 3 February 2014 [YUN 2014, p. 1478], the Court fixed 3 October 2014 and 3 June 2015 as the respective time limits for the filing of a memorial by Nicaragua and a counter-memorial by Colombia.

The memorial by Nicaragua was filed within the time limit.

On 19 December 2014, Colombia, referring to article 79 of the Rules of Court, raised certain preliminary objections to the jurisdiction of the Court. In accordance with paragraph 5 of the same article, the proceedings on the merits were then suspended.

By an order of 19 December 2014 [ibid.], the President of the Court fixed 20 April 2015 as the time limit for the filing by Nicaragua of a written statement of its observations and submissions on the preliminary objections raised by Colombia. The written statement by Nicaragua was filed within the time limit. By a letter dated 17 February 2015, Chile, referring to article 53, paragraph 1, said:

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for public hearings on the request for the indication of provisional measures.

At the end of public hearings, Timor-Leste confirmed the provisional measures it had requested the Court to indicate; while Australia asked the Court to refuse Timor-Leste's request and to stay the proceedings until the Arbitral Tribunal rendered its judgment in the arbitration under the Timor Sea Treaty.

In its order of 3 March 2014 [YUN 2014, p. 1479], the Court, by 12 votes to 3

internal waters areas of Costa Rica's territorial sea and exclusive economic zone in the Caribbean Sea, and which was protested by Costa Rica in a letter to the UN Secretary-General dated 23 October 2013. Costa Rica claimed that although Nicaragua accepted in 2013 the invitation to resume negotiations, it took no further action to restart the process.

As the basis for the Court's jurisdiction, Costa Rica invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, made on 20 February 1973, and a declaration made by Nicaragua on 24 September 1929 (as amended on 23 October 2001), as well as article XXXI of the American Treaty on Pacific Settlement of 1948 (Pact of Bogotá).

By an order of 1 April 2014 [YUN 2014, p. 1479], the Court fixed 3 February 2015 and 8 December 2015 as the respective time limits for the filing of a memorial by Costa Rica and a counter-memorial by Nicaragua, which were filed within the time limits.

### **Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (M I .I )**

On 24 April 2014 [YUN 2014, p. 1479], the Marshall Islands filed an application instituting proceedings against India, accusing it of not fulfilling its obligations with respect to the cessation of the nuclear arms race at an early date and to nuclear disarmament.

In its application, the Marshall Islands, which acceded to the Treaty on the Non-Proliferation of Nuclear Weapons ( ) on 30 January 1995, asserted that the obligations enshrined in article VI of the were not merely treaty obligations, but also existed separately and applied to all States under customary international law. It stated that India, by engaging in conduct that directly conflicted with the obligations of nuclear disarmament and cessation of the nuclear arms race at an early date, had breached and continued to breach its legal duace at a 1(a 1(a 1(a .4 (0)]TJ/SpaActualTextFEFF00A0:

By a note verbale of 2 July 2015, Pakistan requested a six-month extension of the time limit for the filing of its counter-memorial. On 8 July, the Marshall Islands informed the Court that it would be comfortable with the Court's extending the initial six-month time limit to nine months in total, from the date of the filing of the Marshall Islands' memorial. By an order of 9 July, the President of the Court extended from 17 July 2015 to 1 December 2015 the time limit for the filing of the counter-memorial by Pakistan, which was filed within the extended time limit.

**Obligations concerning Negotiations  
relating to Cessation of the Nuclear  
Arms Race and to Nuclear Disarmament  
(Marshall Islands v. Pakistan)**

On 24 April 2014 [YUN 2014, p. 1480], the Mar

