

WAYS TOWARDS JUSTICE

The Assembly of the International Law Association of Serbia adopted the Statement on the Respect of Decisions of International Judicial Institutions



We must secure full respect of the sentence of the International Court of Justice in The Hague

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Genocide is a crime against international law, condemned by the entire civilized world

At the session held on June 28, 2007, the Assembly of the International Law Association of Serbia adopted unanimously the "Statement on the Respect of the Decisions of International Judicial Institutions". This Statement was adopted primarily in view of the judgment of the International Court of Justice of February 26, 2007, in the case of Bosnia-Herzegovina v. Serbia and Montenegro concerning the violation of the Convention on the Prevention and Punishment of the Crime of Genocide. This case, which lasted a few years, as well as the judgment, provoked large attention and public discussion in Serbia, Bosnia-Herzegovina and Montenegro. Without the intention to express a unified expert standpoint in regard to the judgment, the International Law Association considered necessary to underline the ruling of the International Court of Justice and particularly to urge the highest state organs of Serbia to fully implement its judgment.

It is of particular importance and constitutes the foundation of the judgment, that the Court confirmed the findings already established in the judgments of the International Tribunal for former Yugoslavia – that genocide was committed over Bosnian Muslims in July 1995 in Srebrenica. One of the main contentious issues at the trial was the attitude of Serbia and its organs in regard to this event. Although, on the one hand, the International Court of Justice ruled that Serbia did not commit, incite or was an accomplice in genocide contrary to the Convention on the Prevention and Punishment of the Crime of Genocide, on the other hand the Court also ruled that Serbia had violated her obligations from the Convention by not preventing genocide, and by failing to extradite Ratko Mladic, accused of genocide and complicity in genocide, to the International Tribunal for former Yugoslavia. Also, the Court has established that Serbia had violated her obligation to respect provisional measures ordered by the Court in 1993, all the more so because she failed to undertake all measures within her powers in order to prevent genocide in Srebrenica.

The International Law Association, as an organization of experts for international law in Serbia, considers necessary to remind once more of this judgment of the International Court of Justice as it directly concerns Serbia and her relationship to the horrible crimes during the war in Bosnia-Herzegovina 1992-1995. Also, it is necessary to remind of the most important elements of the judgment, particularly as they were subject to different interpretations of the in the public. Some of those were even characterized with a certain kind of triumphalism which is absolutely inappropriate in such a grave matter related to the most serious crime against international law.

The Statement the Association calls upon the highest authorities in the Republic of Serbia to secure complete implementation of the verdict of the International Court of Justice, primarily regarding the obligation to extradite to the International Criminal Tribunal Ratko Mladic, who is accused of genocide. Full respect of the Convention on Genocide obliges Serbia to extradite all those accused of genocide who are in her territory. The state aspiring to belong to the system of international law must not violate this Convention, which represents one of the foundations of the international legal order. Finally, the implementation of the decision of the International Court of Justice is part of a broader problem, namely of our country's general attitude regarding decisions of international judicial institutions. Declaratory support for the respect of international law must be accompanied by concrete measures. Apart from international treaties which envisage international jurisdiction in contentious cases, Serbia is party to many international treaties which envisage international jurisdiction in cases submitted by individuals and legal persons (for instance, European Convention on Human Rights and Basic Freedoms, Covenant on Civil and Political Rights, etc.). It must be said that up to now experience related to the implementation of decisions of international institutions has not been a particularly positive one. On the one hand, this is the problem of the legislature, however, on the other hand there is also the issue of the lack of will to implement international decisions.

The International Law Association will continue to deal with this issue, both in academic discussions and

by concretely supporting respect for decisions of international judicial institutions, and by this also of international law. It should be repeated that full respect of the Convention of the Prevention and Punishment of the Crime of Genocide bears particular significance, especially the obligation to arrest and extradite to the International Criminal Tribunal all those accused of genocide, because genocide is a crime against international law which is condemned by the entire civilized world (UN General Assembly's Resolution 96(1), December 11, 1946).