

# **Vancouver Youth Model United Nations Conference**



## **International Court of Justice (ICJ)**

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Welcome to the International Court Of Justice at Vancouver Youth Model United Nations. The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946. ICJ is one of the six principal organs of the United Nations, the only one not located in New York, but in The Hague (Netherlands). The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies. The ICJ is a unique committee and is recommended for delegates with some previous MUN experience as well as debating experience, as it requires delegates to act not only as representatives of their respective countries but to also serve as law and policy makers. The ICJ is an important council that stands to represent the values upon which the UN conducts itself along with the duty each country has to uphold justice in a world of increasingly complex international relations. This year's ICJ session will prove to be fun and informative.

Because of the ICJ's uniqueness, it's proceedings follow a different format from most other UN organs. In contentious cases, a team of two delegates works together to prove either their opponent country's breaking of international law (applicant/plaintiff) or their state's innocence (respondent/defendant).

Delegates will deliver speeches in accordance with the following time format:

7 -minute speech by Applicant Delegation

7 -minute speech by Respondent Delegation

10-minute speech by Applicant Delegation

10-minute speech by Respondent Delegation

3 -minute speech by Respondent Delegation

3 -minute speech by Applicant Delegation

The judges may ask questions during speeches, save the last minute of the first four speeches and the whole of the final two speeches, as well as after presentations have been made. The Adjudicators include the four Dais staff of the ICJ, all committee members who are not involved in presenting the current case, and any other qualified member or attendee of VYMUN who the Dais sees fit to include as a judge. After the speeches have been delivered and questions have been exhausted, the representatives of the two disputing countries will be asked to leave the room as the judges deliberate their ruling. Once the judges

ruling has passed, their decision is final and the Court will proceed on to the next case.

All teams are expected to submit a Memorial outlining their position to the Dais by 12 October 2011. This document need not be in excess of 2 pages and should state any applicable international law and relevant facts and arguments, and, for applicant nations, what they want to see the court decide or award to their nation. Please note that the dais does not want to see a copy of your speech, and the points outlined in your memorial should be further expounded upon in your speeches. The purpose of the Memorial is to ensure that delegates are prepared for their cases and understand their respective topics. Point-form is acceptable and quite preferable. Please send the Memorials to [icj@vymun.com](mailto:icj@vymun.com).

Preparation tips for delegates assigned to the ICJ:

- Prepare and Research! Google well!
- Anticipate what others may request. If you think they may ask for a specific example, they will. For example, if the case is about a territorial dispute, bring a map of the area to pass out to the court. Bring copies of the law you are using to base your case on etc.
- Also do some basic research on the other cases that the ICJ will be hearing. This way you will be more prepared to ask good questions during the hearing.
- Other committees emphasize compromise. This is not the situation in the ICJ. In the Court, delegates choose a particular side and strongly defend it.

The ICJ may also be asked to provide advisory opinions on matters brought up by other UN organs. This may involve delegates from other committees providing cases for the ICJ delegates to judge. The ICJ Dais will decide the format of these proceedings on an as-needed basis, if they arise.

We look forward to seeing you soon,

Your Dais,

Ben Turner

Ethan Kellough

Liam Carson

Hayaat Stuart

## TOPIC ONE: The former Yugoslav Republic of Macedonia v. Greece

The dispute between the former Yugoslav Republic of Macedonia (FYROM), “the Republic of Macedonia”, and Greece is based on a qualm that the nation of Greece has with the naming of FYROM, considering the use of name “Macedonia”. Historically and regionally, Greece has associations with the name Macedonia and opposes the use of the former Yugoslav Republic of Macedonia’s title without a preceding use of “northern” (Macedonia) in the name. Not only does Greece disagree with the term geo-politically (and in consequent productions of maps and surrounding documents), it disapproves the use of the term “Macedonian” in regards to the main ethnicity and language spoken within the nation.

The constitutional name of the country is the Republic of Macedonia but states that do not recognize this title use the former Yugoslav Republic of Macedonia. Interesting, rather than Greece being the nation pressing charges, it is the ROM/FYROM that is doing so, taking Greece to court due to its prevention of the ROM/FYROM from using its constitutional name in a variety of international situations and scenarios, as it is allotted as a sovereign nation. Complications come up, however, considering the historical ties many Greek people have with the name Macedonia itself and its usage by other states.

Although connections between the neighboring countries have been and remain strong, the case has raised questions of what truly is in a name, as well as the implications of how naming and nomenclature can result in not only disputes but at some points, halting to the diplomatic process.



Delegates entertaining this case will have to take into account at least part of the historical context of this dispute. Aside from reviewing documents issued by the International Criminal Court, delegates are encouraged to research and review documents associated with the dispute as well as the stances of both Greece and the Republic of Macedonia/former Yugoslav Republic of Macedonia on the issue. Considerations should include the citizens of the Greek area of Macedonia as well as the Republic of Macedonia/former Yugoslav Republic of Macedonia’s citizens and the respective ethnicity and language associated with a majority of the population.

## TOPIC TWO: Croatia v. Serbia (formerly Croatia v. Yugoslavia)

Yugoslavia was a communist country that occupied the territory that now consists of Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, and Macedonia. Yugoslavia's post-WWII history was tumultuous, and the many ethnic groups in the country soon began to act less than amicably with one another. This paper will focus on disputes between ethnic Serbs and Croats, since this case was brought by Croatia against Yugoslavia, and is now a case against Serbia.

In 1974, the federal government of Yugoslavia introduced a new



constitution which gave the different provinces, and thereby individual ethnic groups, more power. With the death of Josip Broz Tito in 1980, Yugoslavia lost a very strong leader, who had, until that point, been holding the country together.

Political strife went on for most of the 1980's, but erupted in ethnic violence in 1990. Croatia was attempting to replace the Yugoslavian government services (police, bureaucracy, other officials) with Croatian services, in an effort to increase their independence. The problem that arose had to do with the fact that there were pockets of other ethnicities, particularly Serbs, within the borders of Croatia. When the newly Croatian police force tried to crack down on armed uprisings in the region of Krajina, the tensions turned in violence.

As the fighting for the various groups' independence escalated, the Yugoslav Federal Army (JNA) was called in to respond, even pleading with the nation's executive to establish a state of emergency, wherein the army could take total control. The JNA was dominated by ethnic Serbs, but this does not mean it was an entirely Serbian force. During this period of instability, the Croatian Defense Minister, Martin Spegeli, began illegally importing arms from Hungary, as the different provinces had been demilitarized when the JNA became the national army. In 1991, all out war broke out in Croatia as the JNA actively aided Croatian Serbs who were trying to break away from Croatia in their rebellion against Croatian police and army forces.

In 1995, Croatia began Operation Storm, a military operation aimed at securing Croatian independence. Serbian forces, both inside and outside the JNA, resisted this. After the fact, Croatia estimated that 116 civilians died in the operation, while Serbia puts the number at about 1200.

Croatia claims that Yugoslavia, in 1995 was responsible for the deaths of 20,000 people, property damage in at least 590 towns and villages, as well as the destruction of cultural sites. Croatia moved for, and continues to seek for Yugoslavia to make reparations payments for the alleged atrocities. Croatia claims that Yugoslavia was responsible for *ethnic cleansing*, and was therefore in violation of the international agreement that outlaws ethnic cleansing and genocide.

### Questions to Consider

- I. What is the difference between ethnic cleansing and genocide?
- II. Is it possible to identify a victim and an aggressor in this case?
- III. Is it legitimate for culpability to transfer from one nation to another?

### **TOPIC 3: Italy v. Germany (Greece intervening)**

Under the III Reich, Germany committed many violations of fundamental human rights and war crimes. During World War II, millions of people were imprisoned in many European countries, including Italy and Greece. After the war, Hitler's reign of Germany was finished. In 1947, in one of the many Peace Treaties of the time, Italy agreed to waive "on its own behalf and on the behalf of Italian nationals all claims against Germany and German nationals". However, on June 1961, Germany then agreed to compensate the Italian government for their actions under Hitler during WWII. Throughout the rest of the century, Germany has provided certain Italian nationals, who Germany felt required reparations not covered in previous treaties, extra compensation.

On December 23rd 2008, the Federal Republic of Germany filed a claim against the Italian Republic, before the International Court of Justice (the ICJ). Germany claiming " [t] hrough its judicial practice...Italy has infringed and continues to infringe on its obligations towards Germany under international law." Germany contends, "In recent years, Italian judicial bodies have repeatedly disregarded the jurisdictional immunity of Germany as a sovereign state." On March 11th 2004, the Italian Corte di Cassazione ruled in favor of the Ferrini case, brought forth against Germany by a Italian citizen who "during World War II had been deported to Germany to perform forced labor in the armaments industry." Many more cases have been brought forth since the Ferrini case within the Italian courts. Germany is worried that hundreds of cases could emerge. Germany was also concerned by " attempts by Greek nationals to enforce in Italy, a judgment obtained in Greece on an account of a ...Massacre committed by German military units during their withdrawal in 1944". Germany is hoping the ICJ will rule that by allowing civil claims, even those based on violations of international humanitarian law, in this case those committed by Germany during WWII from September 1943 to May 1945, Italy has failed to respect German jurisdictional immunity. In other words that Italy does not have the jurisdiction to try Germany within Italy's internal courts.

Germany desires that Italy takes all steps to ensure all court decisions between citizens and Germany, already passed within the Italian court become unenforceable, and that future Italian courts take any precautionary steps to not entertain legal action against Germany. Germany brought to the Court, Article 1 of the European Convention for Peaceful Settlement of Disputes<sup>i</sup>, as evidence for the legitimacy of their claim. The convention ratified by Italy in 1960 and Germany in 1961.

Italy then reasoned with the Court and presented a counter claim on December 23rd 2009. Citing article 80<sup>ii</sup> of the rules of the ICJ court, as justification for this counter claim (see foot note for article 80). Italy states there is a need for reparation, an obligation of reparation owed to the victims of war crimes and crimes against humanity perpetrated by the III Reich. Italy asserts

that Germany “ violated this obligation with regard to Italian victims of such crimes by denying them effective reparation, [that] Germany’s international responsibility is engaged”, and should be punished for this conduct... finally that Germany must cease its wrongful conduct and offer appropriate and effective reparation to these victims, by the means of its own choosing, as well through the conclusion of agreements with Italy”. On July 20<sup>th</sup> 2010 the Court, by thirteen votes to one, “[found] that the counter-claim presented by Italy . . . is inadmissible as such and does not form part of the current proceedings”. Germany had brought to the attention of the Court Article 27<sup>iii</sup> of the European Convention for the Peaceful Settlement of Disputes as a response and attempt to prove Italy’s claim invalid, article 27 played a large part in the Court’s ruling against Italy’s counter-claim.

On July 13<sup>th</sup>, 2011 the Hellenic Republic (Greece) filed an application to intervene in the case concerning Jurisdictional Immunities of the state. Greece wished to intervene in order to preserve the legal rights of Greece that could be affected by the Court’s decision, and to ensure that their country and their interests are not misrepresented. Greece was referring to Germany's initial application in December 2008. The application referred to Italy’s involvement in enforcing decisions made against Germany within the Greek courts. Greece stressed that “its intention is to solely intervene in the aspects of the procedure relating to judgments rendered by its own ...courts” regarding incidents during WWII and Italy’s involvement in enforcing these decision. On July 4<sup>th</sup> 2011, the ICJ ruled in favor of Greece’s intervention as a non-party.

#### Questions to Consider:

- I. Why do countries wish to project their sovereignty?
- II. Should reparations continue to be paid for damages resulting from a conflict that ended over 60 years ago?
- III. Is a current government who has done no harm still obligated to pay for previous regimes crimes?
- IV. How would you seek reparations if you felt you deserved them?
- V. Should a state have judicial immunity regarding war crimes?
- VI. How should claims for reparation from WWII be dealt with today?
- VII. Should there be a time limit on reparations for violations of fundamental human rights?

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<sup>i</sup> Article 1

The High Contracting Parties shall submit to the judgment of the International Court of Justice all international legal disputes which may arise between them including, in particular, those concerning:

1. The interpretation of a treaty;
2. Any question of international law;
3. The existence of any fact which, if established, would constitute a breach of an international obligation;
4. The nature or extent of the reparation to be made for the breach of an international obligation.

<sup>ii</sup> Article 80

1. A counter-claim may be presented provided that it is directly connected with the subject matter of the claim of the other party and that it comes within the jurisdiction of the Court.

2. A counter-claim shall be made in the Counter-Memorial of the party presenting it, and shall appear as part of the submissions of that party.

3. In the event of doubt as to the connection between the question presented by way of counter-claim and the subject matter of the claim of the other party the Court shall, after hearing the parties, decide whether or not the question thus presented shall be joined to the original proceedings.

<sup>iii</sup> Article 27

The provisions of this Convention shall not apply to:

1. Disputes relating to facts or situations prior to the entry into force of this Convention as between the parties to the dispute;
2. Disputes concerning questions which by international law are solely within the domestic jurisdiction of States