

**Before the**

**INTERNATIONAL COURT OF JUSTICE**

**DECLARATION OF INTERVENTION UNDER ARTICLE 63 OF THE HELLENIC  
REPUBLIC**

**6 October 2022**

**In the case of**

**ALLEGATIONS OF GENOCIDE UNDER THE CONVENTION ON THE  
PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE**

**(UKRAINE v. RUSSIAN FEDERATION)**

## **DECLARATION OF INTERVENTION UNDER ARTICLE 63 OF THE STATUTE OF THE COURT OF THE HELLENIC REPUBLIC**

To the Registrar, International Court of Justice, the undersigned being duly authorized by the Government of the Hellenic Republic:

1. I have the honour to submit to the Court a Declaration of Intervention pursuant to Article 63, paragraph 2, of the Statute of the Court in the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*.

2. Article 82, paragraph 2, of the Rules of the Court provides that a State which desires to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall file a declaration that states the name of an agent, specifies the case and the convention to which it relates, and which contains:

- (a) particulars of the basis on which the declarant State considers itself a party to the convention;
- (b) identification of the particular provisions of the convention the construction of which it considers to be in question;
- (c) a statement of the construction of those provisions for which it contends;
- (d) a list of documents in support, which documents shall be attached.

3. Those matters are addressed in sequence below, following some preliminary observations.

### **I. PRELIMINARY OBSERVATIONS**

4. On 26 February 2022, Ukraine instituted proceedings against the Russian Federation concerning “a dispute ... relating to the interpretation, application and fulfilment of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide” (“the Genocide Convention” or “the Convention”).

5. In its Application instituting proceedings, Ukraine claims that

“(...) the Russian Federation’s declaration and implementation of measures in or against Ukraine in the form of a “special military operation” declared on 24 February 2022 on the basis of alleged genocide, as well as the recognition that

preceded the military operation, is incompatible with the [Genocide] Convention and violates Ukraine's right to be free from unlawful actions, including military attack, based on a claim of preventing and punishing genocide that is wholly unsubstantiated".<sup>1</sup>

and that accordingly

“[t]here is a dispute between Ukraine and the Russian Federation within the meaning of Article IX relating to the interpretation, application or fulfilment of the Genocide Convention”.<sup>2</sup>

6. Together with the Application, Ukraine filed a Request for the indication of provisional measures in which it requests the Court to indicate provisional measures “in order to prevent irreparable prejudice to the rights of Ukraine and its people and to avoid aggravating or extending the dispute between the parties under the Genocide Convention”.<sup>3</sup>

7. On 7 March 2022 a public hearing was held, without the participation of the Russian Federation. However, in a document communicated to the Court on 7 March 2022, the Russian Federation contended that the Court lacked jurisdiction to entertain the case and “request[ed] the Court to refrain from indicating provisional measures and to remove the case from the list”.<sup>4</sup>

8. In its Order of 16 March 2022 the Court indicated the following provisional measures:

- (1) The Russian Federation shall immediately suspend the military operation that it commenced on 24 February 2022 in the territory of Ukraine;
- (2) The Russian Federation shall ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations and person which may be subject to its control or direction, take no steps in furtherance of the military operations referred to in points (1) above; and

---

<sup>1</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Application instituting proceedings, filed in the Registry of the Court on 26 February 2022, para. 26.

<sup>2</sup> *Ibid.*, para. 7.

<sup>3</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Request for the indication of provisional measures of 26 February 2022, para. 20.

<sup>4</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Document (with annexes) from the Russian Federation setting out its position regarding the alleged “lack of jurisdiction” of the Court in the case, dated 7 March 2022, para. 24.

(3) Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

9. On 23 March 2022 the Court issued an order that fixed the time-limits for the filing of Ukraine's Memorial and the Russian Federation's Counter-Memorial as of 23 September 2022 and 23 March 2023, respectively.

10. On 30 March 2022, as provided for in Article 63, paragraph 1, of the Statute of the Court, the Registrar of the Court duly notified the States Parties to the Genocide Convention that

“(…) the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide Convention”) is invoked both as a basis of the Court’s jurisdiction and as a substantive basis of the Applicant’s claims on the merits. In particular, the Applicant seeks to found the Court’s jurisdiction on the compromissory clause contained in Article IX of the Genocide Convention, asks the Court to declare that it has not committed a genocide as defined in Articles II and III of the Convention, and raises questions concerning the scope of the duty to prevent and punish genocide under Article I of the Convention”.<sup>5</sup>

11. On 1 July 2022, Ukraine filed its Memorial.

12. Article 82, paragraph 1, of the Rules of Court provides that a declaration of a State desiring to avail itself of the right of intervention conferred upon it by Article 63 of the Statute shall be filed “as soon as possible and not later than the date fixed for the opening of the oral proceedings”. In accordance with this requirement, this Declaration has been filed at the earliest reasonably available opportunity, namely after the filing of Ukraine’s Memorial and after the Court having previously rendered its order on provisional measures in the case.

13. By filing this Declaration, the Hellenic Republic avails itself of its right under Article 63, paragraph 2, of the Statute of the Court to intervene as a Contracting Party to the Genocide Convention.

14. This case raises important issues concerning the Genocide Convention. The Hellenic Republic firmly believes that the Genocide Convention is of utmost importance to prevent and punish genocide. Any acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group constitute a crime under international law. The prohibition against genocide is “a peremptory norm in international law (*jus cogens*)”.<sup>6</sup> Moreover, as the Court has affirmed, “[i]n view of their shared values, all the States parties to the Genocide Convention have a common interest to ensure that acts of genocide are prevented and that, if they occur, their authors do not enjoy impunity. That

---

<sup>5</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Letter from the Registrar of the Court No 156413, to the Contracting Parties to the Genocide Convention, dated 30 March 2022. See Annex A to this Declaration.

<sup>6</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, at p. 111, para. 161.

common interest implies that the obligations in question are owed by any State party to all the other States parties to the Convention” (obligations *erga omnes partes*).<sup>7</sup> Already more than seven decades ago, the Court had recognised the international community’s common interest in the rights and duties enshrined in the Convention, observing that “a convention of this kind [...] does not deal with the private interests of a State, but with the preservation of an element of international order...”.<sup>8</sup> In such situations, when the treaty embodies matters of collective interest, the late Judge Cançado Trindade called upon all States Parties to contribute to the proper interpretation of the treaty as sort of a “collective guarantee of the observance of the obligations contracted by the States Parties”.<sup>9</sup>

15. It follows that all States Parties to the Genocide Convention have an interest of their own in the proper interpretation, application and fulfilment of the obligations enshrined therein.

16. It is within this context that the Hellenic Republic has decided to exercise its right to intervene under Article 63 of the Statute in order to reaffirm its commitment to upholding the rights and obligations contained in the Genocide Convention and to support the Court in preserving the integrity of the Convention.

17. In this Declaration, the Hellenic Republic focuses on the construction of Article IX of the Genocide Convention on the jurisdiction of the Court and, consistent with the restricted scope for interventions under Article 63 of the Statute, will present its interpretation of Article IX of the Convention in line with customary rules of interpretation as reflected in the Vienna Convention on the Law of Treaties.<sup>10</sup> As this Court has underlined, “an intervention under Article 63 of the Statute is limited to submitting observations on the construction of the convention in question and does not allow the intervenor, which does not become a party to the proceedings, to deal with any other aspect of the case before the Court [...]”.<sup>11</sup> Hence, the Hellenic Republic’s Declaration of intervention will not address issues of application of the Convention. At the same time, the Hellenic Republic reserves the right to supplement the present Declaration and the scope of its observations to the extent that additional matters of jurisdiction arise as the case progresses or as the Hellenic Republic becomes aware of them

---

<sup>7</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Provisional Measures, Order of 23 January 2020, I.C.J. Reports 2020, p. 3, at p. 17, para. 41 with further references; see also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, p. 36, para. 107.

<sup>8</sup> *Reservations to the Genocide Convention, Advisory Opinion of 28 May 1951*, I.C.J. Reports 1951, p. 15, at p. 22.

<sup>9</sup> Separate Opinion of Judge Cançado Trindade, attached to *Whaling in the Antarctic (Australia v. Japan)*, Declaration of Intervention of New Zealand, Order of 6 February 2013, I.C.J. Reports 2013, p. 3, at p. 33, para. 53.

<sup>10</sup> See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, p. 31, para. 87: “The Court will have recourse to the rules of customary international law on treaty interpretation as reflected in Articles 31 to 33 of the Vienna Convention on the Law of Treaties of 23 May 1969”; see also *Application of the International Convention On the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)*, Preliminary Objections, Judgment, I.C.J. Reports 2021, p. 71, at p. 95, para. 75 with further references.

<sup>11</sup> *Whaling in the Antarctic (Australia v. Japan)*, Declaration of Intervention of New Zealand, Order of 6 February 2013, I.C.J. Reports 2013, p. 3, at p. 9, para. 18.

upon receipt, in accordance with Article 86, paragraph 1, of the Rules, of the pleadings and documents annexed to them.

18. The Hellenic Republic does not seek to become a party to the proceedings and recognises that by using its right to intervene, the construction of the Genocide Convention given by the judgment of the Court in this case will be equally binding upon it.

19. The Hellenic Republic further informs the Court that it is willing to assist the Court in grouping its intervention together with similar interventions from other EU Member States for future stages of the proceedings, if the Court deems such a move useful in the interest of an expedient administration of justice.

## **II. CASE AND CONVENTION TO WHICH THIS DECLARATION RELATES**

20. This Declaration of intervention relates to the case concerning Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation) instituted on 26 February 2022 by Ukraine against the Russian Federation. This case raises questions concerning the construction of the Genocide Convention.

21. As a Contracting Party to the Genocide Convention, the Hellenic Republic has a direct interest in the construction that might be placed upon provisions of the Convention by the Court.

## **III. BASIS ON WHICH THE HELLENIC REPUBLIC IS PARTY TO THE CONVENTION**

22. The Hellenic Republic signed the Convention on 29 December 1949 and deposited its instrument of ratification of the Convention in accordance with Article XI of the Convention on 8 December 1954.<sup>12</sup>

## **IV. PROVISIONS OF THE CONVENTION IN QUESTION IN THE CASE**

23. In its Application, Ukraine seeks to found the Court's jurisdiction on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention.<sup>13</sup> The Russian Federation, in its document of 7 March 2022 communicated to the Court, is of the

---

<sup>12</sup> See Annex B to this Declaration.

<sup>13</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 16 March 2022, p. 2, para. 3.

view that Article IX of the Genocide Convention does not confer jurisdiction on the Court in this case.<sup>14</sup>

24. Therefore, the proper construction of the compromissory clause of the Convention, i.e. its Article IX, is in question in the case.

The said provision reads as follows:

*“Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”*

25. It is with regard to the interpretation of that provision that the Hellenic Republic intervenes in the current proceedings on the basis of Article 63 of the Statute of the Court. The Hellenic Republic notes that Article 63 does not make a distinction between provisions in a convention, which relate to jurisdictional issues and those, which relate to substantive provisions. Accordingly, there appears to be no reason within the Statute why an intervention should not be allowed for the purpose of placing an interpretation of a compromissory clause. Furthermore, according to Judge Schwebel “intervention in the jurisdictional phase of a proceeding is within the scope of rights with which States are endowed by the terms of Article 63”.<sup>15</sup> The wording of Article 63 is unqualified in asserting “whenever the construction of a convention ... is in question”. This implies that Article 63 is applicable in all phases of a given case. Indeed, both at the jurisdictional stage and the stage of the merits, States may offer their assistance to the Court in the construction of a particular convention. Accordingly, interventions on both aspects are allowed,<sup>16</sup> and the wording in Article 82 of the Rules to file a declaration “as soon as possible” confirms that the filing of an Article 63 declaration is admissible at this stage of the proceedings.

---

<sup>14</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Document (with annexes) from the Russian Federation setting out its position regarding the alleged “lack of jurisdiction” of the Court in the case, dated 7 March 2022, paras. 10 *et seq.*

<sup>15</sup> See Dissenting Opinion of Judge Schwebel, attached to *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Declaration of Intervention of El Salvador, Order of 4 October 1984*, *I.C.J. Reports 1984*, p. 223, at pp. 235-236.

<sup>16</sup> M.N. Shaw (ed.), *Rosenne’s Law and Practice of the International Court: 1920-2015*, Brill Nijhoff, Leiden/Boston, 5<sup>th</sup> ed., 2016, Vol. III, para. 364, p. 1533; H. Thirlway, *The Law and Procedure of the International Court of Justice: Fifty Years of Jurisprudence*, Oxford University Press, Oxford, 2013, Vol I, p. 1031; A. Miron, C. Chinkin, “Article 63”, in A. Zimmermann *et al.*, (eds.), *The Statute of the International Court of Justice: A Commentary*, Oxford University Press, Oxford, 2019, 3<sup>rd</sup> ed., p. 1763.

## V. CONSTRUCTION OF ARTICLE IX OF THE GENOCIDE CONVENTION FOR WHICH THE HELLENIC REPUBLIC CONTENTS

26. As the Court has recalled in its Order on provisional measures in the case at hand, the Parties to this case dispute whether the compromissory clause of Article IX of the Genocide Convention can be invoked in a case in which allegations of genocide committed by one State lead to the use of military force by another State.<sup>17</sup> Whether the Court does indeed have jurisdiction to make a declaration of an applicant State's compliance with its obligations under the Convention, provided that this is a matter in dispute between the Parties to the case, is therefore dependent on the proper construction of Article IX of the Genocide Convention.

27. The Hellenic Republic contends that the notion of "dispute" is already well established in the case law of the Court and supports the current interpretation. Accordingly, it concurs with the meaning given to the word "dispute" as "a disagreement on a point of law or fact, a conflict of legal views or of interests" between parties.<sup>18</sup> A dispute exists wherever the two sides "hold clearly opposite views" with respect to the issue brought before the Court, "the claim of one party is positively opposed by the other", and "the respondent was aware, or could not have been unaware, that its views were 'positively opposed' by the applicant".<sup>19</sup> It is not necessary that a respondent State has expressly responded to the position of the applicant State.<sup>20</sup> As recognised by the Court, "in case the respondent has failed to reply to the applicant's claims, it may be inferred from this silence, in certain circumstances, that it rejects those claims and that, therefore, a dispute exists".<sup>21</sup> Moreover, the Court has emphasized that a dispute under a specific treaty may exist despite the absence of "a specific reference to the treaty or to its provisions" in public statements by the parties, provided that those statements "refer to the subject-matter of the treaty with sufficient clarity to enable the State against which a claim is made to identify that there is, or may be, a dispute with regard to that subject-matter".<sup>22</sup>

28. Turning to the interpretation of the other parts of Article IX, namely that the scope of such disputes must be "relating to the interpretation, application or fulfilment of the present Convention", the Hellenic Republic contends that Article IX is a broad jurisdictional clause, allowing the Court to adjudicate upon disputes concerning the alleged fulfilment by a Contracting Party of its obligations under the Convention.

---

<sup>17</sup> See *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 16 March 2022, paras. 28 *et seq.*

<sup>18</sup> *The Mavrommatis Palestine Concessions, Judgment of 30 August 1924, P.C.I.J., Series A, No. 2*, p. 11.

<sup>19</sup> *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom), Preliminary Objections, Judgment, ICJ Reports 2016*, p. 833, at p. 850, para. 41 with further references.

<sup>20</sup> See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, p. 27, para. 71.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*, para. 72, citing *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Preliminary Objections, Judgment, I.C.J. Reports 2011 (I)*, p. 85, para. 30.



29. The Hellenic Republic's interpretation of Article IX in general and of the phrase "relating to the interpretation, application or fulfilment of the Genocide Convention" in particular is based on Article 31 of the 1969 Vienna Convention on the Law of Treaties, reflecting customary international law, and which reads as follows:

*1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.*

*2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:*

*(a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;*

*(b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.*

*3. There shall be taken into account, together with the context:*

*(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;*

*(b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;*

*(c) any relevant rules of international law applicable in the relations between the parties.*

30. As far as the *ordinary meaning* of the terms of Article IX is concerned, the phrase "relating to the interpretation, application or fulfilment of the Convention" may be divided in two parts: (a) "relating to" and (b) "interpretation, application of fulfilment of the Convention".

31. (a) The phrase "relating to" establishes a link between the dispute and the Convention. The subject-matter of the dispute must concern the Convention itself. Or, to put it otherwise: it would not be permissible to use the Genocide Convention as a means of bringing before the Court a dispute regarding alleged violations of other rules of international law.

32. However, where, like in the case at hand, the subject-matter of an application concerns the question whether certain acts, such as allegations of genocide and military operations undertaken with the stated purpose of preventing and punishing genocide, are in conformity with the Genocide Convention, such dispute falls squarely within the scope of Article IX of the Convention. The Court can exercise its jurisdiction under Article IX of the Genocide Convention irrespective of the question whether or not the conduct in question simultaneously breaches other rules of international law extrinsic to the Genocide Convention and whether or not the Court has jurisdiction over those matters.

33. (b) The phrase "interpretation, application or fulfilment of the Convention" is intentionally broad to encompass many different scenarios. As observed, Article IX of the

Convention is “a model of clarity and simplicity, opening the seising of the Court as largely as possible”.<sup>23</sup>

34. It is already the ordinary meaning of Article IX which makes it clear that there is no need to establish genocidal acts as a basis to affirm the Court’s jurisdiction. Rather, the Court has jurisdiction *over the question whether* genocidal acts have been or are being committed or not.<sup>24</sup> The French version of the text, which is equally authentic according to Article X of the Convention, corroborates this interpretation of Article IX, as the expression « y compris ceux relatifs à la responsabilité d’un État *en matière de génocide* » is broad enough to include not only the commission but also the non-commission of the crime of genocide.

35. Moreover, the inclusion of the word “fulfilment” in Article IX in addition to the more common formulation of “interpretation and application” in compromissory clauses further supports the view that the Court has jurisdiction *ratione materiae* to declare the absence of genocide when genocide is being alleged to take place. As Judge Oda noted, the inclusion of the word “fulfilment” is “unique as compared with the compromissory clauses found in other multilateral treaties which provide for submission to the International Court of such disputes between Contracting Parties as related to the *interpretation or application* of the treaties in question”.<sup>25</sup>

36. Thus, whenever there is a dispute between two or more States Parties concerning whether a State Party has engaged in conduct contrary to the Convention, the State party accused of such conduct has the same right to submit the dispute to the Court as the State that has made the accusation, and the Court will be in a position to exercise its jurisdiction. There is nothing that limits the Court’s jurisdiction to cases where it is the applicant State that accuses the respondent State of breaching its obligations under the Convention. Otherwise a State Party could freely invent violations of the Genocide Convention, allegedly committed by another State Party without the latter being able to have recourse to the Court, thus excluding from the Court’s jurisdiction genocide-related disputes and leading potentially to serious misuses of the Genocide Convention.

37. Moreover, Article IX expressly provides for ICJ jurisdiction “at the request of *any of the parties* to the dispute” (emphasis added). The Court has stated that this “phrase clarifies that only a party to the dispute may bring it before the Court”.<sup>26</sup> The relevant limitation is that the party seising the Court must be *a* party to the dispute, but there is no limitation as to which party to the dispute. It can be “any” party to the dispute. This language suggests that a State

---

<sup>23</sup> R. Kolb, “The Compromissory Clause of the Convention”, in P. Gaeta (ed.), *The UN Genocide Convention: A Commentary*, Oxford University Press, Oxford, 2009, p. 420.

<sup>24</sup> See *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 16 March 2022, p. 10, para. 43; see also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Order of 23 January 2020, *I.C.J. Reports 2020*, p. 3, at p. 14, para. 30.

<sup>25</sup> Declaration of Judge Oda, attached to *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, *Preliminary Objections, Judgment*, *I.C.J. Reports 1996*, p. 595, at p. 627, para. 5 (emphasis in the original).

<sup>26</sup> *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, p. 37, para. 111.

accused of committing genocide has the same right to submit the dispute to the Court as the State making the accusation. In particular, such a State may seek a “negative” declaration from the Court that the allegations from another State that it was responsible for genocide are without legal and factual foundation.

38. The broad interpretation of the Convention’s compromissory clause is furthermore confirmed by the fact that it does not require, unlike many other compromissory clauses, any additional procedural steps such as prior negotiations or attempts to settle the dispute by way of arbitration.

39. Finally, *the object and purpose* of the Convention gives further support to the broad scope of the compromissory clause of Article IX. The Court has noted that “[a]ll the States parties to the Genocide Convention [...] have a common interest to ensure the prevention, suppression and punishment of genocide, by committing themselves to fulfilling the obligations contained in the Convention”.<sup>27</sup> Famously, in its 1951 Advisory Opinion, the Court held:

“The objects of such a convention must also be considered. The Convention was manifestly adopted for a purely humanitarian and civilizing purpose. It is indeed difficult to imagine a convention that might have this dual character to a greater degree, since its object on the one hand is to safeguard the very existence of certain human groups and on the other to confirm and endorse the most elementary principles of morality. In such a convention the contracting States do not have any interests of their own; they merely have, one and all, a common interest, namely, the accomplishment of those high purposes which are the *raison d’être* of the convention. Consequently, in a convention of this type one cannot speak of individual advantages or disadvantages to States, or of the maintenance of a perfect contractual balance between rights and duties. The high ideals which inspired the Convention provide, by virtue of the common will of the parties, the foundation and measure of all its provisions.”<sup>28</sup>

40. The Convention’s object to protect the most elementary principles of morality also prohibits any possibility of a State Party to abuse its provisions for other purposes. It would undermine the Convention’s credibility as a universal instrument to outlaw the most abhorrent crime of genocide if its authority could be abused by any State Party without a possibility of the State Party victim of such abuse to turn to the Court. The purpose of the Convention hence speaks loudly in favour of a reading of Article IX, according to which disputes relating to the interpretation, application and fulfilment include disputes about the abuse of the Convention’s authority to justify a State Party’s action vis-à-vis another State Party to the Convention.

41. In conclusion, it follows from the ordinary meaning of Article IX of the Convention, and the object and purpose of the entire Convention that a dispute regarding acts carried out by

---

<sup>27</sup> *Ibid.*, p. 36, para. 107.

<sup>28</sup> *Reservations to the Genocide Convention, Advisory Opinion of 28 May 1951, I.C.J. Reports 1951*, p. 15, at p. 23.

one State Party against another State Party based on false claims of genocide falls under the notion of “dispute between Contracting Parties relating to the interpretation, application or fulfilment of the present Convention”. Accordingly, the Court’s jurisdiction is broad enough to include a declaration of the absence of genocide and the violation of a good faith performance of the Convention resulting in an abuse of the law.

## VI. DOCUMENTS IN SUPPORT OF THE DECLARATION

42. The Hellenic Republic submits the following documents in support of this Declaration:

- a) Annex A - Letter from the Registrar sent pursuant to Article 63, paragraph 1, of the Court’s Statute.
- b) Annex B – Copy of the Notification by the Depository of the deposit by Greece of the instrument of ratification of the Convention on the Prevention and Punishment of the Crime of Genocide.

## VII. CONCLUSION

43. For the reasons given in this Declaration, the Hellenic Republic respectfully requests the Court to recognise the admissibility of this Declaration and that the Hellenic Republic is availing itself of its right under Article 63, paragraph 2, of the Statute of the Court to intervene in these proceedings.

44. The Hellenic Republic reserves the right to amend or supplement this Declaration in the course of written and oral observations and by filing a further declaration with the Court.

45. The Government of the Hellenic Republic has appointed the undersigned as Agent for the purposes of this Declaration. It has also appointed Caterina Ghini, Ambassador of the Hellenic Republic to the Kingdom of the Netherlands, as Co-Agent. The Registrar of the Court may channel all communication at the following address:

EMBASSY OF THE HELLENIC REPUBLIC IN THE HAGUE  
Amaliastraat 1, 2514JC, Den Haag, Netherlands

Respectfully,



Zinovia Chaido Stavridi, Head of the Public International Law Section of the Legal Department of the Ministry of Foreign Affairs of the Hellenic Republic



156413

30 March 2022

Excellency,

I have the honour to refer to my letter (No. 156253) dated 2 March 2022 informing your Government that, on 26 February 2022, Ukraine filed in the Registry of the Court an Application instituting proceedings against the Republic of the Russian Federation in the case concerning Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation). A copy of the Application was appended to that letter. The text of the Application is also available on the website of the Court ([www.icj-cij.org](http://www.icj-cij.org)).

Article 63, paragraph 1, of the Statute of the Court provides that:

[w]henever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith”.

Further, under Article 43, paragraph 1, of the Rules of Court:

“Whenever the construction of a convention to which States other than those concerned in the case are parties may be in question within the meaning of Article 63, paragraph 1, of the Statute, the Court shall consider what directions shall be given to the Registrar in the matter.”

On the instructions of the Court, given in accordance with the said provision of the Rules of Court, I have the honour to notify your Government of the following.

In the above-mentioned Application, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide Convention”) is invoked both as a basis of the Court’s jurisdiction and as a substantive basis of the Applicant’s claims on the merits. In particular, the Applicant seeks to found the Court’s jurisdiction on the compromissory clause contained in Article IX of the Genocide Convention, asks the Court to declare that it has not committed a genocide as defined in Articles II and III of the Convention, and raises questions concerning the scope of the duty to prevent and punish genocide under Article I of the Convention. It therefore appears that the construction of this instrument will be in question in the case.

./.

[Letter to the States parties to the Genocide Convention  
(except Ukraine and the Russian Federation)]

Your country is included in the list of parties to the Genocide Convention. The present letter should accordingly be regarded as the notification contemplated by Article 63, paragraph 1, of the Statute. I would add that this notification in no way prejudices any question of the possible application of Article 63, paragraph 2, of the Statute, which the Court may later be called upon to determine in this case.

Accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'P. Gautier', with a large, stylized initial 'P' and a long horizontal stroke at the end.

Philippe Gautier  
Registrar

Annex B

UNITED NATIONS  NATIONS UNIES  
NEW YORK

CABLE ADDRESS · UNATIONS NEWYORK · ADRESSE TELEGRAPHIQUE

FILE NO.: C.N.239.1954.TREATIES

4 January 1955

CONVENTION OF 9 DECEMBER 1948 ON THE PREVENTION AND PUNISHMENT OF  
THE CRIME OF GENOCIDE

RATIFICATION BY GREECE

Sir,

I am directed by the Secretary-General to inform you that, on 8 December 1954, the instrument of ratification by the Government of Greece of the Convention on the Prevention and Punishment of the Crime of Genocide, opened for signature at Paris on 9 December 1948, was deposited with the Secretary-General of the United Nations in accordance with the provisions of Article XI of the Convention.

In its instrument of ratification the Government of Greece made the following declaration:

COPY

(Translation) We further declare that We have not accepted and do not accept any reservation which has already been made or which may hereafter be made by the countries signatory to this Instrument or by countries which have acceded or may hereafter accede thereto.

In accordance with the provisions of Article XIII of the Convention, the ratification by Greece will become effective on 8 March 1955, that is to say, on the ninetieth day following the deposit of the instrument of ratification with the Secretary-General.

The present notification is made in accordance with Article XVII (a) of the Convention.

Accept, Sir, the assurances of my highest consideration.



Constantin A. Stavropoulos  
Principal Director  
in charge of the Legal Department