

INTERNATIONAL COURT OF JUSTICE

***ALLEGATIONS OF GENOCIDE UNDER THE CONVENTION ON THE  
PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE  
(UKRAINE V. RUSSIAN FEDERATION)***

**DECLARATION OF INTERVENTION OF THE PORTUGUESE REPUBLIC  
UNDER ARTICLE 63 OF THE STATUTE OF THE  
INTERNATIONAL COURT OF JUSTICE**

To the Registrar of the International Court of Justice, the undersigned being duly authorized by the Government of the Portuguese Republic.

### **I. Right to Intervene**

1. On behalf of the Government of the Portuguese Republic, I have the honor to submit to the Court a Declaration of Intervention pursuant to Article 63, paragraph 2, of the Statute of the International Court of Justice in the case *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 declaration of a State's desire to avail itself of the right of intervention conferred upon by Article 63 of the Statute shall specify the case and the convention to which it relates and shall contain:
  - 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 below.

## **II. Case and Convention to which this Declaration of Intervention relates**

4. On 26 February 2022, Ukraine instituted proceedings against the Russian Federation in a dispute concerning the interpretation, application or fulfilment of the Convention on the Prevention and Punishment of Genocide (the "Convention").<sup>1</sup>
5. In paras. 4-12 of its Application, Ukraine contends that there is a dispute between Ukraine and the Russian Federation within the meaning of Article IX relating to the interpretation, application or fulfilment of the Convention.
6. Ukraine states that its Application «concerns a dispute between Ukraine and the Russian Federation relating to the interpretation, application and fulfillment» of the Genocide Convention. It contends that: «... the Russian Federation has falsely claimed that acts of genocide have occurred in the Luhansk and Donetsk oblasts of Ukraine, and on that basis recognized the so-called "Donetsk People's Republic" and "Luhansk People's Republic", and then declared and implemented a "special military operation" against Ukraine with the express purpose of preventing and punishing purported acts of genocide that have no basis in fact. »<sup>2</sup>
7. Ukraine's Application further contends that: «Russia's actions erode the core obligation of Article I of the Convention, undermine its object and purpose, and diminish the solemn nature of the Contracting Parties' pledge to prevent and punish genocide.»<sup>3</sup>
8. Following a request for provisional measures from Ukraine, the Court ordered on 16 March 2022 that:

**(1)The Russian Federation shall immediately suspend the military operation that it commenced on 24 February 2022 in the territory of Ukraine;**

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<sup>1</sup> Application instituting proceedings, filed in the Registry of the Court on 27 February 2022.

<sup>2</sup> Application instituting proceedings, filed in the Registry of the Court on 27 February 2022, S. I, Para. 2.

<sup>3</sup> Application instituting proceedings, filed in the Registry of the Court on 27 February 2022, S. IV Para. 28.

- (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 persons 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
- (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. As of the date of this Declaration, the Russian Federation has failed to comply with the Order of the Court, has intensified and expanded its military operations on the territory of Ukraine and has thus aggravated the dispute pending before the Court.
10. On 30 March 2022, in accordance with Article 63, paragraph 1, of the Statute of the Court, the Registrar duly notified the Government of the Portuguese Republic of the proceedings as a party to the Convention.<sup>4</sup> The registrar noted that:

*In the above-mentioned Application, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (...) is invoked both as a basis for 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 (...) 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 this case.*

11. It is the firm conviction of the Portuguese Republic that the Genocide Convention is an instrument of the utmost importance to prevent and punish genocide, one of the most serious acts against the very notion of human dignity. Any acts committed with an intent to destroy, in whole or in part, national, ethnical, racial or religious groups constitute a crime under international law. The prohibition against genocide

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<sup>4</sup> Letter from the Registrar of the International Court of Justice to the Ambassador of the Portuguese Republic to the Kingdom of the Netherlands of 30 March 2022 (ref. no. 156413).

is a *jus cogens* norm in international law.<sup>5</sup> The rights and obligations enshrined by the Convention are rights and obligations *erga omnes*.<sup>6</sup>

12. The interpretation, application and fulfillment of the Convention and of its provisions is therefore of interest to all its parties, including the Portuguese Republic. As the Court has noted, «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>7</sup>

13. As a Party to the Genocide Convention and in line with its active commitment to a rules-based international order, the Portuguese Republic has thus a direct interest in its interpretation by the Court.

14. Accordingly, by the present Declaration of Intervention, the Portuguese Republic avails itself of the right to intervene conferred upon it by Article 63, paragraph 2, of

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<sup>5</sup> *Case Concerning 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, paras. 161-162.

<sup>6</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 with further references; *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>7</sup> *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, I.C.J. Reports 1951, p. 23.

the Statute of the Court. The Court has recognized that Article 63 confers a “right” of intervention.<sup>8</sup> The Court has also underlined that an intervention

*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; and (...) such intervention cannot affect the equality of the Parties to the dispute.*<sup>9</sup>

15. The Portuguese Republic confirms that it does not seek to become a party to the Proceedings and that it accepts that the construction given to the Convention by the judgment in the case will be equally binding upon it.

### **III. Basis on which the Portuguese Republic considers itself a Party to the Convention**

16. The Portuguese Republic acceded to the Convention and deposited its instrument of accession in accordance with Article XI, paragraph 4, of the Convention on 9 February 1999.

### **IV. Provisions of the Convention the Construction of which is in Question in the Case**

17. The Portuguese Republic’s intervention is limited to the matters relating to the construction of the provisions of the Convention that arise in this case. This case raises questions concerning different provisions of the Convention, including those on the jurisdiction of the Court as well as those relevant for the merits of the case.
18. It should be noted that Article 63 of the Statute of the Court does not make a distinction between provisions in a Convention which relate to jurisdictional issues and those which relate to substantive provisions. Indeed, States may offer in both

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<sup>8</sup> *Haya de la Torre (Colombia v. Peru)*, Judgment, I.C.J. Reports 1951, p. 76; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 1981, p. 13, para. 21.

<sup>9</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.

situations their assistance to the Court in the construction of a particular Convention.

19. Accordingly, the Portuguese Republic will focus its intervention on the construction of the following provisions:

- a) Article IX of the Convention concerning the jurisdiction of the Court; and
- b) Article I of the Convention, concerning the obligation of States Parties to prevent and punish the crime of genocide, which must be interpreted also in light of Articles II, III and VIII.

20. The intervention on the construction of the abovementioned provisions will follow the timings and procedural moments established by the Court's Statute, the Rules of the Court and the corresponding decisions by the Court.

#### **V. Statement of the Construction of the Provisions for which it Contends: *Jurisdiction***

21. Article IX of the Convention 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.*

22. The notion of "dispute" is already well-established in the case law of the Court, which considers 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»<sup>10</sup> between parties. In order for a dispute to exist, «[i]t must be shown that the claim of one party is

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<sup>10</sup> *Mavrommatis Palestine Concessions*, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2, p. 11.

positively opposed by the other». <sup>11</sup> The two sides must «hold clearly opposite views concerning the question of the performance or nonperformance of certain international obligations». <sup>12</sup> Moreover, «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>13</sup>

23. The Portuguese Republic will thus focus on the interpretation of the other elements of Article IX, namely that the scope of such disputes must be «relating to the interpretation, application or fulfilment of the present Convention». The Portuguese Republic is of the view that Article IX is a broad jurisdictional clause, allowing the Court to adjudicate upon disputes concerning the interpretation, application and fulfilment by a Contracting Party of its obligations under the Convention.

24. The usual meaning of the phrase «relating to the interpretation, application or fulfilment of the Convention» may be divided in two sub-categories:

- a) The first element («relating to») establishes a link between the dispute and the Convention;
- b) The second element («interpretation, application or fulfilment of the Convention») encompasses different scenarios. <sup>14</sup>

25. Regarding the first element, the Portuguese Republic considers that an allegation by a State Party to the Genocide Convention that another State Party to the

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<sup>11</sup> *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*, Preliminary Objections, Judgment of 21 December 1962, I.C.J. Reports 1962, p. 319, at p. 328.

<sup>12</sup> *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)*, Provisional Measures, Order of 23 July 2018, I.C.J. Reports 2018, p. 406, at p. 414, para. 18; ICJ, *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Preliminary Objections, Judgment, I.C.J. Reports 2016, p. 3, at p. 26, para. 50, citing *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania*, First Phase, Advisory Opinion, I.C.J. Reports 1950, p. 74.

<sup>13</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. 27, para. 71.

<sup>14</sup> As Kolb has observed, Article IX of the Convention is «a model of clarity and simplicity, opening the seizing of the Court as largely as possible» – R. Kolb, «The Compromissory Clause of the Convention», in: Paola Gaeta (ed.), *The UN Genocide Convention: A Commentary*, (OUP 2009), p. 420.



Genocide Convention has committed genocide establishes a link between the dispute and the Convention, since the Convention contains essential elements that both Parties to the Convention have accepted to assess whether a genocide has been committed.

26. Regarding the second element and the above-mentioned different scenarios, there is a dispute about the interpretation, application or fulfilment of the Convention when one State Party alleges that another State Party has committed genocide<sup>15</sup>. In that scenario, the Court has to verify the factual basis for such allegation and whether it is or not satisfied that there were any acts of genocide committed in violation of the Convention.<sup>16</sup>
27. There can also be disputes about “non-action” or omissions to prevent genocide as a violation of the substantive obligations under Article I, IV and V.
28. The Court also has jurisdiction *ratione materiae* to declare the absence of genocide, when a State makes false allegations that are not based on existing facts, and that there has been a violation of performance in good faith of the obligations under the Convention resulting in an abuse of its provisions.
29. The Convention’s object and purpose and the high values and principles it protects also prohibits any possibility of a State Party to abuse its provisions for any other ends or purposed than those foreseen in the Convention. 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 review by the Court.

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<sup>15</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. 75, para. 169.

<sup>16</sup> *Case Concerning Legality of Use of Force (Yugoslavia v. Portugal)*, Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999, p. 656, at pp. 669-670, paras. 35-40. Later, the ICJ declined its jurisdiction on the ground that Serbia and Montenegro did not have access to the Court, at the time of the institution of the proceedings, under Article 35 of the Statute (see ICJ, *Case Concerning Legality of Use of Force (Serbia and Montenegro v. Portugal)*, Preliminary Objections, Judgment of 15 December 2004, I.C.J. Reports 2004, p. 1160).

30. As it was discussed in the Court's Provisional Measures Order of 16 March 2022, the substance of the dispute between these two parties to the Genocide Convention relates to two main questions: «whether certain acts allegedly committed by Ukraine in the Luhansk and Donetsk regions amount to violation of its obligations under the Genocide Convention, as well as whether the use of force by the Russian Federation for the stated purpose of preventing and punishing alleged genocide is a measure that can be taken in fulfillment of the obligation to prevent genocide contained in Article I of the Convention.»<sup>17</sup>
31. It is therefore the view of the Portuguese Republic that a dispute exists between the parties to the case regarding the application, interpretation, and fulfillment of the Genocide Convention, and that the Court has jurisdiction under Article IX of the Convention.

#### **VI. Statement of the Construction of the Provisions for which it Contends: *Merits***

32. The Portuguese Republic will submit to the Court, in due course, more detailed views on the interpretation of the different provisions of the Convention relevant to the merits of the case, in particular with regard to Article I, which must be interpreted also in light of Articles II, III and VIII. At this juncture, the main points regarding the interpretation of such provisions will be outlined.
33. Article I of the Convention reads as follows:

*The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.*

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<sup>17</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of the Court of 16 March 2022 on the Request for the Indication of Provisional Measures, para. 45.

34. According to Article I of the Convention, all States Parties are obliged to prevent and punish genocide by employing «all means reasonably available so as to prevent genocide as far as possible».<sup>18</sup> However, in fulfilling their duty to prevent genocide, States Parties must act within the limits permitted by international law.<sup>19</sup>
35. In carrying out their duty under Article I States Parties must also act in good faith.<sup>20</sup> As «one of the basic principles governing the creation and performance of legal obligations»<sup>21</sup>, it follows from the obligation to act in good faith that a Party to the Convention shall abstain from undermining the object and purpose of the Convention underlying Article I or abuse its provisions. Failing to do so may result in an abuse of the law and a consequent breach of the Convention.
36. Whether or not certain specific facts amount to genocide that would trigger Article I of the Convention is not a matter left to the subjective determination of one interested party. Article II of the Convention deals with the definition of genocide and Article III lists five modes of committing genocide, which shall be punishable. The elements of genocide are already well-established in the case law of the Court. In particular, in order for genocide to occur, there is a requirement to establish, based on compelling evidence, both genocidal action and a (specific) genocidal intent next to the mental elements present in the acts listed in Article II.<sup>22</sup>

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<sup>18</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. 221, para. 430.

<sup>19</sup> *Case Concerning 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. 221, para. 430; *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, para. 57.

<sup>20</sup> Articles 26 and 31(1) of the Vienna Convention on the Law of Treaties; *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 7, at p. 79, para. 142.

<sup>21</sup> *Nuclear Tests (Australia v. France)*, I.C.J. Reports 1974, p. 253, at p. 268, para. 46.

<sup>22</sup> *Case Concerning 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 (I), p. 43, at pp. 121-122, paras. 186-189.

37. Furthermore, when the duty to prevent genocide is invoked, the Contracting Parties to the Genocide Convention must be prepared to present compelling evidence that genocide has or is about to occur.<sup>23</sup>

38. Moreover, Article VIII of the Genocide Convention provides that:

*Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.*

39. The prevention and suppression of genocide is therefore not purely a domestic matter but it concerns the international community as a whole. States Parties may, for that reason, call upon competent organs of the United Nations to take action under the Charter for the prevention and suppression of acts of genocide. Both the Security Council and the General Assembly are “competent organs” who may take collective action, either by a non-binding General Assembly resolution or by Security Council enforcement action under Chapter VII. In addition, Article IX of the Convention confers the right to seize the Court regarding disputes under the Convention.

40. The duty to prevent genocide is not exhausted by Article VIII,<sup>24</sup> including when the competent organs of the United Nations have manifestly failed to act. However, the legality of any unilateral measure must always be assessed against the obligation set out in Article VIII and other applicable international law obligations, including those enshrined in the Charter of the United Nations. The obligation to prevent genocide provided for in Article I of the Convention does not provide by and in itself a legal basis for the use of force in violation of Article 2, paragraph 4, of the Charter of the United Nations.

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<sup>23</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. 57, para. 422.

<sup>24</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. 219-220, para. 427.

41. In addition, as the Court emphasized in its Order of 16 March 2022,<sup>25</sup> there is a collective dimension of the obligation to prevent genocide and that collective dimension is related to Articles VIII and IX and the preamble of the Convention. As a consequence, the fulfilment of the obligation of prevention of genocide in good faith would require favoring cooperation, in particular in the context of the United Nations organs and of peaceful settlement of disputes, over any unilateral military action.

#### **VII. Documents in Support of the Declaration of Intervention**

42. The following is a list of the documents in support of this Declaration, certified copies of which are attached hereto:

- a) Letter from the Registrar of the International Court of Justice to the Ambassador of the Portuguese Republic to the Kingdom of the Netherlands of 30 March 2022, ref. no. 156413 (Annex A);
- b) Instrument of accession of the Portuguese Republic to the Convention (Annex B);
- c) United Nations Depositary Notification confirming the Portuguese Republic's accession to the Convention (Annex C).

#### **VIII. Conclusion**

43. On the basis of the information set out above, the Portuguese Republic avails itself of the right conferred upon it by Article 63, paragraph 2, of the Statute of the Court

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<sup>25</sup> *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of the Court of 16 March 2022 on the Request for the Indication of Provisional Measures, para. 56.

to intervene as a non-party in the proceedings brought by Ukraine against the Russian Federation in this case.

44. The construction contended for in this Declaration of Intervention is relevant for the proceedings in what concerns the Court's jurisdiction and the merits of the claims.

45. The Portuguese Republic reserves its right to amend or supplement this Declaration of Intervention, and any observations submitted with respect to it, as it may consider necessary during the proceedings.

46. The Government of the Portuguese Republic has appointed the undersigned as Agent for purposes of the present Declaration, together with His Excellency António de Almeida Lima, Ambassador of Portugal to the Kingdom of the Netherlands, as Co-Agent.

47. It is requested that all communications in this case be sent to the following address:

Embassy of the Portuguese Republic to the Kingdom of the Netherlands  
Zeestraat 74 - 2518 AD  
Den Haag  
The Netherlands

Respectfully submitted,



Patrícia Galvão Teles

Director of the Department of Legal Affairs of the Ministry of Foreign Affairs of the Portuguese 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.

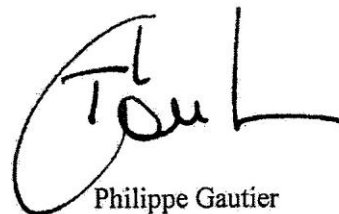
In the above-mentioned Application, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide Convention”) is invoked both as a basis of the Court’s jurisdiction and as a substantive basis of the Applicant’s claims on the merits. In particular, the Applicant 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.

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[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 'Gautier', with a large, sweeping initial 'G'.

Philippe Gautier  
Registrar



UNITED NATIONS  NATIONS UNIES

POSTAL ADDRESS—ADRESSE POSTALE: UNITED NATIONS, N.Y. 10017  
CABLE ADDRESS—ADRESSE TELEGRAPHIQUE: UNATIONS NEWYORK

Reference: C.N.110.1999.TREATIES-1 (Depositary Notification)

CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME  
OF GENOCIDE

NEW YORK, 9 DECEMBER 1948

PORTUGAL: ACCESSION

The Secretary-General of the United Nations, acting in his capacity as depositary,  
communicates the following:

The above action was effected on 9 February 1999, with:

Declaration (Translation) (Original: French)

The Portuguese Republic declares that it will interpret article VII of the Convention on the  
Prevention and Punishment of the Crime of Genocide as recognizing the obligation to grant extradition  
established therein in cases where such extradition is not prohibited by the Constitution and other  
domestic legislation of the Portuguese Republic.

The Convention will enter into force for Portugal on 10 May 1999 in accordance with its  
article XIII (3) which reads as follows:

"Any ratification or accession effected subsequent to the latter date [... the date of deposit of  
the twentieth instrument of ratification or accession] shall become effective on the ninetieth day  
following the deposit of the instrument of ratification or accession."

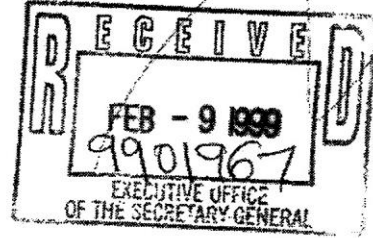
22 February 1999



Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned.



Permanent Mission of Portugal  
to the United Nations



*M. Groll (sp)*

*AH*

*M. K... ..*

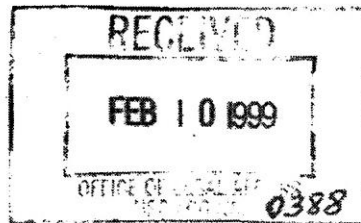
ONU/1999/38

The Permanent Representative of Portugal to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to enclose herewith the instrument of ratification by Portugal of the "Convention on the Prevention and Punishment of the Crime of Genocide", adopted by the General Assembly of the United Nations on the 9<sup>th</sup> of December of 1948.

The Permanent Representative of Portugal to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurances of his highest consideration.

*IV. I  
Should be accession instead of ratification  
I don't think Portugal signed, did they?  
(with declaration)*

New York, 8 January, 1999



OLA TREATY SECTION

FEB 10 1999

LOG NO. 289





REPÚBLICA PORTUGUESA

**JORGE FERNANDO BRANCO DE SAMPAIO**

**PRESIDENT DE LA RÉPUBLIQUE PORTUGAISE**

JE FAIS SAVOIR QUE LA CONVENTION POUR LA PRÉVENTION ET LA RÉPRESSION DU CRIME DE GÉNOCIDE, ADOPTÉE PAR L'ASSEMBLÉE GÉNÉRALE DES NATIONS UNIES À NEW YORK LE 9 DÉCEMBRE 1948, APPROUVÉE POUR ADHÉSION PAR LA RÉOLUTION DE L'ASSEMBLÉE DE LA RÉPUBLIQUE N° 37/98 DU 30 AVRIL 1998, PUBLIÉE AU JOURNAL OFFICIEL I SÉRIE A, DU 14 JUILLET 1998 ET RATIFIÉE PAR LE DECRET N°33/98 DU 14 JUILLET, PUBLIÉ DANS LA MÊME ÉDITION DU JOURNAL OFFICIEL, EST PAR LE PRÉSENT INSTRUMENT DE RATIFICATION CONFIRMÉE ET TENUE POUR FERME ET VALABLE POUR PRODUIRE SES EFFETS ET ÊTRE INVIOLEBLEMENT APPLIQUÉE ET OBSERVÉE, AVEC LA DÉCLARATION SUIVANTE:

LA RÉPUBLIQUE PORTUGAISE DÉCLARE QU'ELLE INTERPRÊTERA L'ARTICLE 7 DE LA CONVENTION POUR LA PRÉVENTION ET LA RÉPRESSION DU CRIME DE GÉNOCIDE DE FAÇON À RECONDUIRE L'OBLIGATION D'EXTRADITION Y PRÉVUE AUX CAS OÙ LA CONSTITUTION DE LA RÉPUBLIQUE PORTUGAISE ET LA RESTANTE LÉGISLATION NATIONALE NE L'INTERDISE PAS.

EN FOI DE QUOI LE PRÉSENT INSTRUMENT DE RATIFICATION PORTE MA SIGNATURE ET LE SCEAU DE LA RÉPUBLIQUE PORTUGAISE.

PALÁCIO NACIONAL DE BELÉM, AOS TREZE DIAS DE JANEIRO DE MIL NOVECENTOS E NOVENTA E NOVE.

