

**WRITTEN OBSERVATIONS
OF
THE REPUBLIC OF BULGARIA**

IN THE CASE

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

(UKRAINE V. RUSSIAN FEDERATION)

30 June 2023

I. INTRODUCTION

1. On 18 November 2022, the Republic of Bulgaria filed a Declaration of Intervention in the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)* pursuant to Article 63, paragraph 2, of the Statute of the International Court of Justice (“the Statute”).
2. On 5 June 2023, the International Court of Justice (“the Court”) decided that the Declaration of Intervention of the Republic of Bulgaria under Article 63 of the Statute is admissible, amongst others¹. The present Written Observations are submitted to the Court based on its Order of 5 June 2023 (“the Order”) and within the the time-limit fixed by the Court in accordance with Article 86, paragraph 1, of the Rules of the Court, namely the 5 of July 2023².
3. The intervention of the Republic of Bulgaria under Article 63 of the Statute has a limited scope on the construction of the Convention in question before the Court at the relevant stage of the proceedings³. As determined by the Court in the Order, the construction of Article IX and other provisions of the Convention on the Prevention and Punishment of the Crime of Genocide (“Genocide Convention”)⁴ that are relevant for the determination of the Court’s jurisdiction *ratione materiae* are in question at the present stage of the Proceedings⁵.
4. The intervention of the Republic of Bulgaria is further limited to the construction of the compromissory clause of Article IX, by its own Declaration of Intervention⁶. References

¹ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 5 June 2023, para. 102 (1).

² *Ibid*, para. 102 (3).

³ *Ibid*, para 84.

⁴ Convention on the Prevention and Punishment of the Crime of Genocide (adopted on 9 December 1948, entered into force of 12 January 1951) 78 UNTS 277.

⁵ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 5 June 2023, para. 99.

⁶ Declaration of Intervention of the Republic of Bulgaria, para 17.

to other rules and principles of international law outside the Genocide Convention will be introduced only in reference to the construction of Article IX of the Convention, in accordance with the customary rule of interpretation reflected in Article 31 of the Vienna Convention on the Law of Treaties (“Vienna Convention”)⁷ and the systemic integration principle of interpretation in international law. The Republic of Bulgaria will not address other matters, such as the existence of a dispute between the Parties, the evidences, the facts or the application of the Genocide Convention in the present case.

5. Upon the Court’s invitation to coordinate with other intervening States⁸, the Republic of Bulgaria has reached a large substantive convergence with the position of other interveners.
6. In the present Written Observations the Republic of Bulgaria will focus on the proper construction of the compromissory clause of Article IX of the Genocide Convention. Together with the key elements, some distinctive features of this provision will be analysed; arguments will be presented to the broad interpretation of the jurisdiction of the Court to decide on disputes relating to the interpretation, application or fulfilment of the Genocide Convention formulated as a non-violation applications; the general rules of interpretation as codified by the Vienna Convention on the Law of Treaties will be applied to the construction of Article IX, in order to argue the inclusion of the Court’s jurisdiction of disputes on interpretation, application and fulfillment in good faith of the provisions of the Genocide Convention; the nature and the role of Article IX as part of the Genocide Convention will be analyzed to ensure the proper understanding of the scope and purpose of the instrument; the Republic of Bulgaria will submit its view on the interpretation of the Genocide Convention within the framework of the entire legal system under the systemic integration principle and in light of the development of law at present.

⁷ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Order of 5 June 2023, para. 84.

⁸ Letter from the Registrar of the International Court of Justice no 159464, 6 June 2023 and Letter no 159638, 23 June 2023.

II. THE CONSTRUCTION OF ARTICLE IX OF THE GENOCIDE CONVENTION

7. Article IX of the Genocide 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.”

8. The meaning of the term “dispute” is long established in the case law of the Court and previously of the Permanent Court of International Justice (“PCIJ”)⁹. Accordingly, a dispute is “a disagreement on a point of law or fact, a conflict of legal views or of interests” between parties.¹⁰ In order for a dispute to exist as a jurisdictional requirement, “[i]t must be shown that the claim of one party is positively opposed by the other”.¹¹ The parties to a dispute must “hold clearly opposite views concerning the question of the performance or non-performance of certain international obligations”.¹²
9. It is also established by the Court and generally recognized that in order for a dispute to arise it is not necessary that a State invoke a specific treaty or its provisions¹³. As the Court has observed, applications that are submitted to it often present a particular

⁹ Declaration of Intervention of the Republic of Bulgaria, para 21.

¹⁰ *Mavrommatis Palestine Concessions (Greece v. United Kingdom)*, Judgment No. 2, 1924, PCIJ, Series A, p. 11.

¹¹ *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*, Preliminary Objections, Judgment, ICJ Reports 1962, p. 328.

¹² *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, ICJ. Reports 2018, p. 414, para. 18; *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Preliminary Objections, Judgment, ICJ Reports 2016, p. 3, at p. 26, para. 50, citing *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania*, First Phase, Advisory Opinion, ICJ Reports 1950, p. 74.

¹³ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Jurisdiction and Admissibility, Judgment, ICJ. Reports 1984, p. 391, at pp. 428-429, para. 83; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Preliminary Objections, Judgment, ICJ Reports 2011, p. 70, at pp. 84-85, para. 30.

dispute that arises in the context of a broader disagreement between parties.¹⁴ Thus, a dispute before the Court may form part of a complex situation that includes various matters over which the States concerned hold opposite views. Moreover, a dispute may fall within the ambit of more than one instrument and may relate to the “interpretation or application” of more than one treaty or other instrument¹⁵. However, in line with the wording “relating to... the present Convention” the Court must still ensure that the dispute in question does fall within the provisions of Article IX of the Genocide Convention¹⁶.

10. The Republic of Bulgaria is focusing now on the proper construction of other parts of the compromissory clause of Article IX of the Genocide Convention as the legal provision relevant to the seisin of the Court and the basis for the exercise of the Court’s jurisdiction¹⁷. Different from other similar provisions in multilateral treaties, Article IX is a broad jurisdictional clause with several distinctive features. Namely, that the scope of such disputes must be “*relating to* the interpretation, application or *fulfilment* of the present Convention” (emphasis added)¹⁸, that the use of the word “including” indicates a scope of Article IX beyond disputes between States about the responsibility for alleged acts of genocide¹⁹ and that “any of the parties to a dispute” may institute a proceeding²⁰. As the Court stated, the Genocide Convention does not attach additional

¹⁴ *Certain Iranian Assets (Islamic Republic of Iran v. United States of America)*, Preliminary Objections, Judgment, ICJ Reports 2019, p. 23, para. 36; *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*, Preliminary Objection, Judgment, ICJ Reports 2015 (II), p. 604, para. 32; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Preliminary Objections, Judgment, ICJ Reports 2011 (I), pp. 85-86, para. 32; *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, Jurisdiction and Admissibility, Judgment, ICJ Reports 1988, pp. 91-92, para. 54; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*, Judgment, ICJ Reports 1980, pp. 19-20, paras. 36-37.

¹⁵ *Alleged Violations of the 1955 Treaty of Amity, Economic Relations and Consular Rights (Islamic Republic of Iran v. United States of America)*, Preliminary Objections, Judgment, 3 February 2021, para. 56.

¹⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Preliminary Objections, Judgment. ICJ Reports 1996, para. 30.

¹⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Provisional Measures, Order, 23 January 2020, para. 35.

¹⁸ Declaration of Intervention of the Republic of Bulgaria, para 21.

¹⁹ *Ibid.*, para. 24.

²⁰ *Ibid.*, para. 25.

conditions to the invocation of responsibility or the admissibility of claims submitted to the Court²¹.

11. The expression “relating to the interpretation, application or fulfilment of the Convention” is “unique as compared with the compromissory clauses found in other multilateral treaties”²². Whereas “relating to” establishes a link between the dispute and the Convention²³, a more detailed analysis of the interpretation, application or fulfillment is further presented.

12. The “interpretation” of the Convention would include the process of determining the true meaning of a word, expression or a provision. As the Court emphasized

“to obtain an interpretation” means “to obtain clarification of the meaning and the scope...”²⁴

In 1927, the PCIJ also indicated that the interpretation would mean

“to give a precise definition of the meaning and scope...”²⁵

The rules of interpretation in international law are codified by the Vienna Convention on the Law of Treaties, in particular Articles 31 and 32 thereof.

13. The term “application” is the ‘action of putting something into operation’ in a given case²⁶. In 1927, the PCIJ held that a dispute on the application of a provision includes

“not only those relating to the question whether the application of a particular clause has or has not been correct, but also those bearing upon the applicability

²¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Preliminary Objections, Judgment, 22 July 2022, para. 110

²² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Preliminary Objections, Declaration of Judge Oda, ICJ Reports 1996 (11), p. 627, para. 5.

²³ Discussed in details under para. 9 of these Written Observations.

²⁴ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)*, Judgment, 27 November 1950, p. 402.

²⁵ *Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów)*, PCIJ, Judgment, 16 December 1927, p. 10.

²⁶ C. Tams, Article IX, in: Tams/Gerster/Schiffbauer, *Convention on the Prevention and Punishment of Genocide*, A Commentary (Beck 2014).

of these articles, that is to say, upon any act or omission creating a situation contrary to the said articles”²⁷.

14. The words “interpretation and application”, as an expression together and as different processes were famously analyzed by Judge Ehrlich as

“The words "interpretation and application" ... refer to processes, of which one, interpretation, is that of determining the meaning of a rule, while the other, application, is, in one sense, that of determining the consequences which the rule attaches to the occurrence of a given fact; in another sense, application is the action of bringing about the consequences which, according to a rule, should follow a fact. Disputes concerning interpretation or application are, therefore, disputes as to the meaning of a rule or as to whether the consequences which the rule attaches to a fact, should follow in a given case”²⁸.

15. By distinguishing the wording of Article IX from other classic clauses, the inclusion of the word “fulfilment” broadens the scope of the jurisdiction of the Court. This conclusion is supported by the *effet utile* principle of treaty interpretation. Thus, the inclusion of additional term in an expression clearly should change in the aspect of making is wider its meaning in general.

16. As the Court observed, compared with standard jurisdictional clauses, “add[ing] the word 'fulfilment' to the provision” confers the Court jurisdiction over disputes as to the 'interpretation and application' of the Convention²⁹. The ordinary meaning of the word “fulfilment” in Article IX can be considered to refer to an application that “meets the requirements” of a norm³⁰. However, the scope of its meaning is much wider than that of the term “application”.

²⁷ *Factory at Chorzów (Jurisdiction)*, PCIJ, Judgment, 26 July 1927, pp 20-21.

²⁸ *Factory at Chorzów (Jurisdiction)*, PCIJ, Judgment, 26 July 1927, Dissenting Opinion by Judge Ehrlich, p. 39.

²⁹ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, ICJ Reports 2007, p. 43, at 114, para. 168.

³⁰ C. Tams, Article IX in: Tams/Gerster/Schiffbauer, Convention on the Prevention and Punishment of Genocide, A Commentary (Beck 2014).

17. The inclusion of the term “fulfilment” was subject to an extensive debate during the drafting of the Convention³¹. The understanding of the wider meaning to this term shared by the majority of delegations voting in favor of the word is an important argument towards the extensive interpretation of the jurisdiction of the Court under Article IX of the Convention.

18. As emphasized by the legal doctrine

“the reason for inserting all the three alternative terms, as does the Genocide Convention, was to give a coverage as exhaustive as possible to the compromissory clause. The aim was thus to close down all possible loopholes weakening the jurisdictional reach of the Court. The purpose pursued in 1948 was to grant the Court a jurisdiction as wide as possible in the life of the Convention, forestalling all the potential subtle arguments denying jurisdiction on account of an insufficient link with that Convention”³².

19. As acknowledged by the Court, Article IX encompasses the situation in which one State alleges that another State has committed genocide³³. Disputes based on allegations by a State Party that another State Party is responsible for acts of genocide, lack of prevention or punishment of acts of genocide clearly constitute disputes on the “interpretation, application or fulfilment” of the Genocide Convention, thus falling within the scope of Article IX of the Genocide Convention.

20. The fact that the Court may decide on disputes concerning a declaration of conformity of the conduct of a State with a given treaty is also supported by the Court's case law. The Applicant asked the Court to declare that its conduct was “in conformity with the economic system... according to the conventions”.³⁴ Neither the Court, nor the Respondent, raised any issue as to the framing of the application as a non-violation

³¹ Official Records of the Third Session of the Sixth Committee of the General Assembly, Part I, Summary of Records of Meetings 21 September – 10 December 1948, UN Doc No A/C.6/SR.61-140

³² Robert Kolb, ‘The Scope *Ratione Materiae* of the Compulsory Jurisdiction of the ICJ’ in P Gaeta (eds), *The UN Genocide Convention: a commentary* (OUP 2009) 442, 453.

³³ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, ICJ Reports 2007, p. 43, at p. 114, para. 169.

³⁴ *Case concerning rights of nationals of the United States of America in Morocco, Judgment of August 27th, 1952: I.C.J. Reports 1952, p. 176, atp. 182.*

one.³⁵ Furthermore, by deciding on the violation and on the non-violation the Court is engaged in the same type of analysis of interpretation and application of treaties in line with the construction of Article IX as represented in these Written Observations. The nature of this analysis falls within the scope of Article IX, when the dispute concerns non-violation complaints. Namely, where a State Party, which has been accused by another State Party of having committed breaches of the Genocide Convention, claims that it has not committed such breaches. The Court confirmed its jurisdiction over Applicant's request for a negative declaration establishing that it had not violated certain Convention³⁶.

21. The broad interpretation of the jurisdiction of the Court under Article IX is further supported by the phrase ("relating to ..."). Disputes relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III are therefore only part of the disputes covered by the jurisdiction of the Court under Article IX³⁷. This conclusion is supported by the Court

"The unusual feature of Article IX is the phrase "including those [disputes] relating to the responsibility of a State for genocide or any of the other acts enumerated in Article III". The word "including" tends to confirm that disputes relating to the responsibility of Contracting Parties for genocide, and the other acts enumerated in Article III to which it refers, are comprised within a broader group of disputes relating to the interpretation, application or fulfilment of the Convention"³⁸ [emphasis added].

³⁵ Ibid., pp. 182-184.

³⁶ See *Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*, Preliminary Objections, Judgment, ICJ Reports 1998, p. 14, para. 13.

³⁷ See also Written Observations of The Gambia on the Preliminary Objections raised by Myanmar, 20 April 2021, pp. 28-29, para. 3.22 ("The inclusion of disputes "relating to the responsibility of a State for genocide" among those that can be brought before the Court unmistakably means that responsibility for genocide can be the object of a dispute brought before the Court by any contracting party").

³⁸ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, 26 February 2007, para. 169

22. Article IX expressly provides for ICJ jurisdiction “at the request of *any of the parties to the dispute*” (emphasis added). As the Court already stressed

“the terms of Article IX providing that disputes are to be submitted to the Court “at the request of any of the parties to the dispute”, as opposed to any of the Contracting Parties, do not limit the category of Contracting Parties entitled to bring claims for alleged breaches of obligations *erga omnes partes* under the Convention. This phrase clarifies that only a party to the dispute may bring it before the Court, but it does not indicate that such a dispute may only arise between a State Party allegedly violating the Convention and a State “specially affected” by such an alleged violation...

...It follows that any State Party to the Genocide Convention may invoke the responsibility of another State Party, including through the institution of proceedings before the Court, with a view to determining the alleged failure to comply with its obligations *erga omnes partes* under the Convention and to bringing that failure to an end”³⁹

23. It follows from the above, that any of the parties to a dispute relating to the Genocide Convention may seek a “negative” declaration from the Court and under the proper interpretation of Article IX disputes of the category of “non-violation” or “no-evidences” applications will fall under the jurisdiction of the Court. The Republic of Bulgaria states as indicated in its Declaration of Intervention⁴⁰ that under Article IX a State Party to the Genocide Convention accused by other State Party of having committed a breach of the Convention may file an application relating to the interpretation, application or fulfillment of the present Convention and to ask the Court to adjudicate and decide that it has not committed the alleged breaches of its obligations.

³⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Preliminary Objections, Judgment, 22 July 2022, para. 111-112

⁴⁰ Para. 23 of the Declaration of Intervention of the Republic of Bulgaria

III. THE NATURE OF ARTICLE IX OF THE GENOCIDE CONVENTION AND THE PLACE OF THE CONVENTION WITHIN THE INTERNATIONAL LEGAL SYSTEM

24. The Republic of Bulgaria recalls that the general principle of interpretation as envisaged by the provision of Article 31 of the Vienna Convention requires a treaty to be interpreted in light of its object and purpose. As represented in its Declaration of Intervention the Republic of Bulgaria is of the view that the object and purpose of the Genocide Convention further support the wide understanding of Article IX⁴¹. The Court held that:

“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.”⁴²

25. The Convention's object to protect “the most elementary principles of morality” is further supported by the provision of the Genocide Convention of prohibition of genocide as a peremptory norm of general international law (*jus cogens* norm)⁴³. The

⁴¹ Para. 26 of the Declaration of Intervention of the Republic of Bulgaria.

⁴² *Reservations to the Genocide Convention*, Advisory Opinion of 28 May 1951, ICJ Reports 1951, p. 23.

⁴³ *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, ICJ Reports 2007, p. 43, at p. 111, paras. 161-162.

Court has recognized a norm as *jus cogens* norm the obligations protecting “essential humanitarian values”⁴⁴. Further, the Republic of Bulgaria recalls that the Court has recognised “the rights and obligations enshrined by the Convention (as) rights and obligations *erga omnes*”.⁴⁵

26. Given the essential function of the prohibition of genocide in ensuring the interests of humanity and the *erga omnes* nature of the rights and obligations of States under the Convention, the Republic of Bulgaria contends that the provisions of the Convention shall be interpreted in good faith.
27. As observed by this Court, the principle of good faith requires Contracting Parties “to apply [a treaty] in a reasonable way and in such a manner that its purpose can be realized”.⁴⁶ Good faith interpretation and application of international law is essential to building “trust and confidence [that] are inherent in international co-operation.”⁴⁷
28. Accordingly, the Republic of Bulgaria is of the view that the good faith principle of interpretation is an important safeguard against abuses of the provisions of the Genocide Convention and a dispute on the way of interpretation, application or fulfillment of the present Convention falls within the jurisdiction of the Court under Article IX thereof.
29. As already stated above, according to the provision of Article IX of the Genocide Convention in order for a dispute to fall under the jurisdiction of the Court it should be relating to the interpretation, application or fulfillment “of the present Convention”. As outlined by the Court, its jurisdiction under Article IX of the Genocide Convention is “confined to obligations arising under the Convention itself”⁴⁸. Accordingly, Article IX

⁴⁴ *Application of the Convention on the prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, ICJ Reports 2007, p. 147.

⁴⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Preliminary Objections, Judgment, ICJ Reports 1996 (II), para. 31.

⁴⁷ *Nuclear Tests (Australia v. France)*, ICJ Reports 1974, p. 7, at p. 142.

⁴⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, para. 88.

cannot be interpreted as including to the jurisdiction of the Court the disputes on the breach of rules of international law different from those laid down in the Convention⁴⁹.

30. However, Article 31, para 3, letter “c” of the Vienna Convention provides that as a general rule of interpretation, together with the context it shall be taken into account “any relevant rules of international law applicable in the relations between the parties”. To that purpose, with regard to the Genocide Convention the Court stated that

“every State may only act within the limits permitted by international law”⁵⁰.

31. As outlined in the Declaration of Intervention of the Republic of Bulgaria⁵¹ “an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation”.⁵² Article IX must be interpret in order to define the place of the Genocide Convention in the international legal order. The construction of Article IX of the Convention shall comply with the understanding of its importance within the international legal system.

32. The Republic of Bulgaria further contends that with regard to the nature of the provision of Article IX as a compromissory clause of the Genocide Convention, and the understanding of the scope of the object and purpose of this instrument as a reflection of “the most elementary principle of morality”, that was created in a reaction to the “denial of the right of existence on entire human group, a denial which shocks the conscience of mankind and results in great losses of humanity”⁵³, the proper construction of Article IX includes under the jurisdiction of the Court a disputes on the conformity of the acts undertaken by the Contracting Parties within the framework of the entire legal system. Moreover, “the interpretation cannot remain unaffected by the

⁴⁹ *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, paras. 147-148.

⁵⁰ *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. 221, para. 430.

⁵¹ Para. 23 of the Declaration of Intervention of the Republic of Bulgaria.

⁵² *Legal Consequences for States of the Continued Presence of South Africa in Namibia*, Advisory opinion, ICJ, 21 June 1971, p. 53.

⁵³ *Reservations to the Genocide Convention*, Advisory Opinion of 28 May 1951, ICJ Reports 1951, p. 23.

subsequent development of the law”⁵⁴ and should ensure that the adequate safeguards of the object and purpose of the Genocide Convention are ensured as a representation of its values in light of the present days.

33. On the basis of the above, the Republic of Bulgaria contends that with regard to the nature of the provision of Article IX as a compromissory clause of the Genocide Convention and the role of the Convention within the international legal system as a coherent order the “spirit and aims of the United Nations”⁵⁵ are relevant rules of international law, applicable to the Parties to the Convention in conformity with the principle of systemic integration interpretation.

⁵⁴ *Legal Consequences for States of the Continued Presence of South Africa in Namibia*, Advisory opinion, ICJ, 21 June 1971, p. 53.

⁵⁵ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Provisional measures, Order, 16 March 2022, para. 58.

IV. CONCLUSION

34. The Republic of Bulgaria submits to the Court, for the reasons given in these Written Observations, that the proper construction of Article IX of the Genocide Convention vests the Court with the jurisdiction to adjudge and declare that

- a. there is no violation of the Convention by the Applicant and
- b. the failure to fulfil the Convention in good faith constitutes a violation of the Convention.

35. The Republic of Bulgaria recalls that the Genocide Convention was negotiated as a reaction to the “denial of the right of existence on entire human group, a denial which shocks the conscience of mankind and results in great losses of humanity”.⁵⁶ Consequently, this instrument represents “the most elementary principle of morality”. The Republic of Bulgaria considers that this nature of the Genocide Convention defines its place within the international legal system.

36. On the basis of the above, the Republic of Bulgaria contends that the jurisdiction of the Court under the proper construction of the compromissory clause of Article IX should be interpreted in conformity with the systemic integration principle “within the framework of the entire legal system prevailing at the time of the interpretation”⁵⁷ and in the light of the object and purpose of the present instrument in order to ensure the so represented values of the Genocide Convention and its role within the international legal system.

Respectfully submitted,



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⁵⁶ *Reservations to the Genocide Convention*, Advisory Opinion of 28 May 1951, ICJ Reports 1951, p. 23.

⁵⁷ *Legal Consequences for States of the Continued Presence of South Africa in Namibia*, Advisory opinion, ICJ, 21 June 1971, p. 53.