



**DECLARATION OF INTERVENTION OF
THE REPUBLIC OF LITHUANIA**

INTERVENTION PURSUANT TO ARTICLE 63 OF THE STATUTE
OF THE INTERNATIONAL COURT OF JUSTICE

19 JULY 2022
AS ADJUSTED ON 24 JULY 2024

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

1. On 19 July 2022, the Republic of Lithuania submitted to the Court a Declaration of Intervention pursuant to the right to intervene set out in Article 63, paragraph 2, of the Statute, in the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)* (General List No. 182).

2. Lithuania's Declaration contained a statement of the construction of Articles I, VIII and IX of the Convention, thereby indicating that Lithuania sought to intervene at the preliminary objections stage and at the merits stage of the proceedings.

3. By an Order of 5 June 2023, the Court decided that Lithuania's intervention was admissible at the preliminary objections stage of the proceedings, in so far as it concerned the construction of Article IX and other provisions of the Genocide Convention that are relevant for the determination of the jurisdiction of the Court.

4. By a Judgment of 2 February 2024, the Court found that it had jurisdiction, on the basis of Article IX of the Genocide Convention, to entertain submission (b) in paragraph 178 of the Memorial of Ukraine, whereby Ukraine had requested the Court to “[a]djudge and declare that there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine”, and that such submission was admissible.

5. By a letter dated 18 June 2024 (n°162412), the Registrar informed Lithuania that “States which sought to intervene at the preliminary objections stage and at the merits stage are invited to indicate, by 2 August 2024, whether they maintain their declarations of intervention. If deemed necessary, they may adjust by the same date their declarations of intervention in light of the Judgment of 2 February 2024.”

6. Lithuania hereby confirms that it maintains its Declaration of Intervention as adjusted below and considers that it should also be declared admissible at the merits stage.

7. For the avoidance of doubt, Lithuania considers that all paragraphs of its Declaration of Intervention of 19 July 2022 remain relevant at the merits stage, including paragraphs 23-25. While those paragraphs concerned the interpretation of Article IX of the Convention on the basis of which the case will proceed on the merits, some of the interpretative contentions made by Lithuania about the said provision remain relevant at the present stage.

This is notably the case of the last sentence of paragraph 23 and of paragraph 24, in so far as it relates to the jurisdiction of the Court for breaches of the obligations embodied under Article I.

8. While finding that it had no jurisdiction *ratione materiae* to entertain Ukraine's claims concerning allegedly unlawful measures by the Russian Federation, the Court recognized in the Judgment of 2 February 2024 that the "Respondent took [those] measures in and against Ukraine *with a stated purpose of preventing and punishing genocide* allegedly committed in the Donbas region".¹ This determination was essential "[i]n assessing the admissibility of Ukraine's request contained in submission (b) of its Memorial".²

9. Having found that it has jurisdiction to entertain submission (b) in paragraph 178 of the Memorial of Ukraine and that such submission is admissible,³ the Court will have to determine whether, as Ukraine contends, "there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine."

10. While the existence of evidence is a matter of fact, the evaluation of the *credible* character of evidence—when it exists—is a matter of judicial assessment, and therefore a matter of law as it is inseparable from the construction of the underlying obligations under the convention for which such evidence may be relevant.

11. Lithuania contends that, when acting "with a stated purpose of preventing genocide"—as the Court has concluded was exactly what was done by the Russian Federation⁴—, States parties to the Convention have the obligation, pursuant to Article I, to act diligently to collect credible evidence from independent sources either that genocidal acts are being perpetrated or that there exists "a serious risk that genocide will be committed".⁵ Put differently, and as already argued in paragraph 20 of its Declaration of 19 July 2022, Lithuania contends that the obligation to act with due diligence to prevent genocidal acts from occurring entails a due diligence obligation to collect such credible evidence before taking any further action in fulfilment of Article I. Article I is manifestly breached when a Contracting Party fails to do so.

¹ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Preliminary Objections, Judgment of 2 February 2024*, para. 108 (emphasis added).

² *Ibid.*, para. 107.


³ *Ibid.*, para. 151 (8) and (9).

⁴ *Ibid.*, para. 108.

⁵ *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. 431.

12. Therefore, Lithuania contends that a finding that there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine necessarily requires and entails finding that the Russian Federation acted in breach of Article I, as the latter State has purported to prevent such alleged genocide while having failed to gather diligently such evidence.

Respectfully,



Gabija Grigaitė-Daugirdė

Agent of the Republic of Lithuania