

INTERNATIONAL COURT OF JUSTICE

DECLARATION OF INTERVENTION UNDER ARTICLE 63 OF THE
STATUTE OF THE COURT

OF THE REPUBLIC OF ESTONIA

IN THE CASE

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 REPUBLIC OF ESTONIA

To the Registrar, the International Court of Justice (the “Court”), the undersigned being duly authorized by the Government of the Republic of Estonia:

1. On behalf of the Government of the Republic of Estonia, I have the honour to confirm the intention of the Republic of Estonia to continue its intervention also in the merits phase of the Case concerning *The Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)* and to submit herewith to the Court a Declaration of Intervention pursuant to Article 63 paragraph 2 of the Statute of the Court.
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 it 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 in sequence below, following some preliminary observations.

PRELIMINARY OBSERVATIONS

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 the Crime of Genocide (the “Genocide Convention”).

5. In paras. 4-12 of its Application instituting proceedings, 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 Genocide Convention.
6. On substance, Ukraine claims that the use of force by the Russian Federation in or against Ukraine since 24 February 2022 on the basis of alleged genocide, as well as the recognition that preceded the military operation, is incompatible with the Convention, quoting Articles I-III thereof (paras. 26-29 of the Application).
7. 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;*
 - (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*
 - (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.*
8. As of date of this Declaration, Russia has failed to comply with the Order, has intensified and expanded its military operations on the territory of Ukraine and has thus aggravated the dispute pending before the Court.
9. On 30 March 2022, pursuant to Article 63, paragraph 1, of the Statute of the Court, the Registrar duly notified the Government of the Republic of Estonia as a party to the Genocide Convention that by Ukraine's application the Genocide Convention "*is invoked both as a basis for the Court's jurisdiction and the substantive basis of [Ukraine's] claims on the merits*". The Registrar also noted that:

"[Ukraine] 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 this case”¹.

10. Between 21 July 2022 and 15 December 2022, 33 States filed declarations of intervention under Article 63, paragraph 2, of the Statute of the Court. By an Order dated 5 June 2023, the Court decided that the declarations of intervention under Article 63 of the Statute submitted by 32 States, the Republic of Estonia included, were admissible at the preliminary objections stage of the proceedings in so far as they 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.
11. In the Judgment rendered on 2 February 2024, the Court concluded that it has 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 requests 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 this submission is admissible.²
12. It is the understanding of the Republic of Estonia that the Genocide Convention is of utmost importance to prevent and punish genocide. The prohibition against genocide is a *jus cogens* norm in international law³. The rights and obligations enshrined by the Convention are owed to the international community as a whole (rights and obligations *erga omnes partes*)⁴.
13. By this present Declaration, the Republic of Estonia avails itself of the right to intervene in the merits phase conferred upon it by Article 63, paragraph 2, of the Statute. This Court has recognized that Article 63 confers a “right” of intervention⁵. The Court has also underlined that an intervention “*is limited to submitting observations on the construction*

¹ Letter from the Registrar of the Court of 30 March 2022 – see Annex A.

² *Allegations of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation: 32 States intervening)*, Preliminary Objections, Judgment of 2 February 2024.

³ *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.

⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, I.C.J. Reports 2022, p. 477, at pp 515-516, para. 107.

⁵ *Haya de la Torre (Colombia v. Peru)*, Judgment, I.C.J. Reports 1951, p. 71, at p. 76; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, Application for Permission to Intervene, Judgment, I.C.J. Reports 1981, p. 3, at p. 13, para. 21.

*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 whereas such intervention cannot affect the equality of the Parties to the dispute”.*⁶

14. Consistent with the restricted scope for interventions under Article 63 of the Statute, the Republic of Estonia will present its interpretation of the relevant Articles of the Genocide Convention in line with customary rules of interpretation as reflected in Articles 31-33 of the Vienna Convention on the Law of Treaties⁷.
15. The present intervention of the Republic of Estonia will deal with Article I and Article II of the Convention for the merits of the case.

BASIS ON WHICH THE REPUBLIC OF ESTONIA IS PARTY TO THE CONVENTION

16. The Republic of Estonia acceded to the Convention and deposited its instrument of accession in accordance with Article XI, paragraph 2, of the Convention on 21 October 1991.

PROVISIONS OF THE CONVENTION IN QUESTION IN THE CASE:

MERITS

17. The Republic of Estonia wishes to share with the Court its interpretation of Articles I and II of the Convention, which it considers relevant for the merits of the case.
18. Article I of the Convention reads:

⁶ *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.

⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, I.C.J. Reports 2022, p. 477, at p. 510, 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 of 4 February 2021, I.C.J. Reports 2021, p. 71, at p 95, para. 75 with further references.

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.

19. According to Article I of the Genocide Convention, all States Parties are obliged to prevent and punish genocide. The Republic of Estonia recalls that the Court already emphasised, that in fulfilling their duty to prevent genocide, Contracting Parties must act within the limits permitted by international law⁸. Moreover, carrying out the duty under Article I must be done in good faith (Article 26 of the Vienna Convention on the Law of Treaties). As the Court has observed, the principle of good faith “*obliges the Parties to apply [a treaty] in a reasonable way and in such a manner that its purpose can be realized*”⁹. Good faith interpretation thus operates as a safeguard against misuse of the Convention. As “*one of the basic principles governing the creation and performance of legal obligations*”, good faith is also directly linked to the “*trust and confidence [that] are inherent in international co-operation*”¹⁰.
20. In the Republic of Estonia’s view, the notion of “*undertake to prevent*” implies that each State Party must assess whether a genocide or a serious risk of genocide exists prior to qualifying a situation as genocide and (possibly) taking action pursuant to Article I¹¹. Such an assessment must be justified by substantial evidence “*that is fully conclusive*”¹².
21. Importantly, the UN Human Rights Council called upon all States, “*in order to deter future occurrences of genocide, to cooperate, including through the United Nations system, in strengthening appropriate collaboration between existing mechanisms that contribute to the early detection and prevention of massive, serious and systematic violations of human rights that, if not halted, could lead to genocide*”.¹³ It therefore

⁸ *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, I.C.J. Reports 2022, p. 211, at p. 225, para. 57.

⁹ *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*, Judgment, I.C.J. Reports 1997, p. 7, at p. 79, para. 142.

¹⁰ *Nuclear Tests (Australia v. France)*, Judgment, I.C.J. Reports 1974, p. 253, at p. 268, para. 46.

¹¹ *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 pp. 221-222, paras. 430-431.

¹² *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. 90, para. 209.

¹³ UN Human Rights Council, Resolution 43/29: Prevention of Genocide (29 June 2020), UN Doc. A/HRC/RES/43/29, para. 11.

constitutes good practice to rely on the results of independent investigations under UN auspices¹⁴ before qualifying a situation as genocide.

22. The correct construction of Article I is hence that a State is under a due diligence obligation to gather such evidence from independent sources, where they exist, before alleging that another State party of the Genocide Convention has committed genocide.
23. Concerning the burden of proof, it is for the party which alleges a fact in support of its claims to prove the existence of that fact¹⁵. This principle is not an absolute one, however, since the determination of the burden of proof is in reality dependent on the subject-matter and the nature of the dispute brought before the Court; it varies according to the type of facts which it is necessary to establish for the purposes of the decision of the case.¹⁶
24. In particular, the Court has recognized that there may be circumstances in which the Applicant cannot be required to prove a negative fact, which it is asserting.¹⁷
25. Against that background, the Republic of Estonia wishes to explain that it is for the State Party bringing a case against another State Party for a false allegation of genocide used as a basis to justify preventive action to provide *prima facie* evidence that its action did not fall under the definition of genocide as laid down in Article II. In turn, the respondent State asserting that its allegation was well-founded to justify its preventive action must provide conclusive evidence in support since this attempted justification involves charges of exceptional gravity.¹⁸ After adversarial scrutiny, it would then be for the Court to evaluate all the evidence produced by the two Parties so as to reach its own conclusions.¹⁹

¹⁴ See for example the reliance of The Gambia on the reports of the Independent International Fact-Finding Mission on Myanmar established by the UN Human Rights Council before bringing a case to the Court; for details see *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, at pp. 502-504, paras. 65-69.

¹⁵ *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, I.C.J. Reports 2010, Judgment, p. 14, at p. 71, para. 162.

¹⁶ *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, I.C.J. Reports 2010, p. 639, at p. 660, para. 54.

¹⁷ *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, I.C.J. Reports 2010, p. 639, at pp. 660-661, para. 55.

¹⁸ *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. 90, para. 209. On the notion of “charges of exceptional gravity” see also G. M. Farnelli, Consistency in the ICJ’s Approach to the Standard of Proof: An Appraisal of the Court’s Flexibility, in: *The Law and Practice of International Courts and Tribunals*, 21:1(2022), pp. 98-121, at 107-111.

¹⁹ *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, I.C.J. Reports 2010, p. 639, at p. 661, para. 56.

26. Article II of the Convention reads:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

27. Article II of the Convention deals with the definition of genocide. The Republic of Estonia contends that the elements of genocide are already well-established in the case law of the Court and supports the current interpretation.

28. In particular, in order for genocide to occur, there is a requirement to establish both genocidal action (*actus reus*) and a (specific) genocidal intent (*mens rea*) next to the mental elements present in the acts listed in Article II.²⁰

29. The Genocide Convention is designed to prevent the physical or biological destruction of all or part of a protected group. When assessing the existence of genocide, the ICTY has considered the detrimental long-term consequences the actions in question have for the physical survival of the group, as well as the residual possibility that the group can reconstitute itself²¹, endorsing a quantitative and qualitative element for the *actus reus*.

30. Genocidal intent, often referred to as specific intent, is considered the intention to destroy, in whole or in part, the group to which the victims belong. It is to be distinguished from other motives or reasons the perpetrator may have. It is not enough that the members of

²⁰ *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 pp. 121-122, paras. 186-189.

²¹ *Prosecutor v Radislav Krstic (Judgement in Sentencing Appeals)*, IT-98-33-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 19 April 2004, paras. 24-31.

the group are targeted because they belong to that group, that is because the perpetrator has a discriminatory intent. Something more is required and great care must be taken in finding in the facts a sufficiently clear manifestation of that intent.²²

31. In turn, the fact that civilian casualties occurred during the course of armed conflict is not *per se* evidence of genocidal action or genocidal intent.
32. Where direct evidence for specific intent is absent, the Court has determined that “in order to infer the existence of *dolus specialis* from a pattern of conduct, it is necessary and sufficient that this is the only inference that could reasonably be drawn from the acts in question”.²³
33. Regarding the standard of proof, the Court requires that it be fully convinced that allegations made in the proceedings, that the crime of genocide or the other acts enumerated in Article III have been committed, have been clearly established. The same standard applies to the proof of attribution for such acts.²⁴

DOCUMENTS IN SUPPORT OF THE DECLARATION

34. The following is a list of the documents in support of this Declaration, which documents are attached hereto:
 - (a) Letter from the Registrar of the International Court of Justice to the Ambassador of the Republic of Estonia to the Kingdom of the Netherlands 30 March 2022;
 - (b) Instrument of accession by the Republic of Estonia to the Genocide Convention;
 - (c) Depositary notification on the accession of the Republic of Estonia to the Genocide Convention.

²² *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 pp. 121-122, paras. 187, 189.

²³ *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, at p. 67, para. 148.

²⁴ *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. 129, para. 209.

CONCLUSION

35. On the basis of the information set out above, the Republic of Estonia avails itself on the right conferred upon it by Article 63 paragraph 2 of the Statute to intervene in the proceedings brought by Ukraine against the Russian Federation in this case.
36. The Government of the Republic of Estonia has appointed the undersigned as Agent for the purposes with this Declaration, together with H.E. Lauri Kuusing, Ambassador of Estonia to the Kingdom of the Netherlands, as CO-Agent. The Registrar of the Court may channel all communication through them at the following address: Embassy of the Republic of Estonia, Zeestraat 94, 2518 AD, The Hague, The Netherlands.

Respectfully,



Kerli Veski

Agent of the Government of the Republic of Estonia

Annex A: Letter from the Registrar of the International Court of Justice to the Ambassador of the Republic of Estonia to the Kingdom of the Netherlands from 30 March 2022;

Annex B: Instrument of accession by the Government of the Republic of Estonia to the Genocide Convention;

Annex C: Depositary notification on the accession of Estonia to the Genocide Convention.

CERTIFICATION

I certify that the documents attached by way of Annexes to this Declaration are true copies of the originals thereof.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a long horizontal line that ends in a large, sweeping loop.

Kerli Veski

Agent of the Republic of Estonia



EESTI VABARIIGI
ÜLEMNÕUKOGU
ESIMEES

His Excellency,
Mr. Perez de Cuellar
Secretary General of the United Nations

I, Arnold RÜütel, Chairman of the Supreme Council of the Republic of Estonia, by signing this letter of accession based on the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia do hereby inform You as the Depositary that the Republic of Estonia has decided to accede by the following 28 Conventions, Covenants and Optional Protocols:

1. Revised General Act for the Pacific Settlement of International Disputes.

Adopted on 28 April 1949.

2. Convention on the Privileges and Immunities of the United Nations.

Adopted on 13 February 1946.

3. Convention on the Privileges and Immunities of the Specialized Agencies.

Adopted on 21 November 1947.

4. Convention on Diplomatic Relations.

Adopted on 18 April 1961.

5. Optional Protocol to the Convention on Diplomatic Relations Concerning Acquisition of Nationality.

Adopted on 18 April 1961.

6. Optional Protocol to the Convention on Diplomatic Relations concerning the Compulsory Settlement of Disputes.

Adopted on 18 April 1961.

7. Convention on Consular Relations.

Adopted on 24 April 1963.

8. Optional Protocol to the Convention on Consular Relations Concerning Acquisition of Nationality.

Adopted on 24 April 1936.

9. Optional Protocol to the Convention on Consular Relations

Concerning the Compulsory Settlement of Disputes.

Adopted on 24 April 1936.

10. Convention on Special Missions.

Adopted on 8 December 1969.

11. Optional Protocol to the Convention of Special Missions
Concerning the Compulsory Settlement of Disputes.

Adopted on 8 December 1969.

12. Convention on the Prevention and Punishment of Crimes
against Internationally Protected Persons including Diplomatic
Agents.

Adopted on 14 December 1973.

13. Convention on the Representation of States in their
Relations with International Organizations of a Universal
Character.

Adopted on 14 March 1975.

14. Convention on Succession of States in respect of State
Property, Archives and Debts.

Adopted on 08 April 1983.

15. Convention on the Prevention and Punishment of the Crime
of Genocide. Adopted 09 December 1948, with the following
objection:

With regard to reservation (2) made by the United States of
America:

The Estonian Government objects to this reservation on the
grounds that it creates uncertainty, as to the extent of the
obligations the Government of the United States of America is
prepared to assume with regard to the Convention. According to
Article 27 of the Vienna Convention on the Law of Treaties, no
party may invoke the provisions of its domestic law as
justification for failure to perform a treaty. .

16. International Convention on the Elimination of All Forms
of Racial Discrimination.

Adopted on 07 March 1966.

17. International Covenant on Economic, Social and Cultural
Rights.

Adopted on 16 December 1966

18. International Covenant on Civil and Political Rights.

Adopted on 16 December 1966.

19. Optional Protocol to the Covenant on Civil and Political Rights.

Adopted on 16 December 1966

20. Convention on the Non-Applicability of Statutory Limitations to War Crimes Against Humanity.

Adopted on 26 November 1968.

21. International Convention on the Suppression and Punishment of the Crime of Apartheid.

Adopted on 30 November 1937.

22. Convention on the Elimination of All Forms of Discrimination against Women.

Adopted on 18 December 1979.

23. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Adopted on 10 December 1984.

24. International Convention against Apartheid in Sports.

Adopted on 10 December 1985.

25. Convention on the Rights of the Child.

Adopted on 20 November 1989.

26. Convention on the Law of Treaties.

Adopted on 23 May 1969.

27. Convention on Succession of States in respect of Treaties.

Adopted on 23 August 1978.

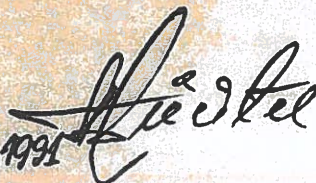
28. Convention on the Law of Treaties between States and International Organizations or between International Organizations.

Adopted on 21 March 1986.

In Conclusion, I, on behalf of the Republic of Estonia, do solemnly affirm that the Republic of Estonia will faithfully abide by all rules and obligations in the aforementioned Conventions, Covenants and optional Protocols.

Signed in Tallinn

on September 26, 1991



A. Rüütel

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REFERENCE: LA 41 TR/221/1 (2-1)
(3-1)
(3-2)/PEND, etc.

The Secretary-General of the United Nations presents his compliments to the Permanent Representative of the Republic of Estonia to the United Nations and has the honour to confirm the deposit, on 21 October 1991, of the instruments of accession by the Government of Estonia to the following twenty-eight treaties:

- (i) Revised General Act for the Pacific Settlement of International Disputes, adopted by the General Assembly of the United Nations on 28 April 1949

In the absence of provisions in the instrument of accession to the contrary, it has been assumed that the accession extends to all the provisions of the Act (chapters I, II, III and IV), as provided for in article 38 A. A confirmation to that effect would however be required at the Permanent Representative's earliest convenience.

In accordance with paragraph 2 of its article 44, the Revised General Act will enter into force for Estonia on the ninetieth day following the date of deposit of the instrument, i.e. on 19 January 1992;

- (ii) Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946

In accordance with its section 32, the Convention entered into force for Estonia on the date of deposit of the instrument, i.e. on 21 October 1991;

- (iii) Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947

The deposit of the instrument of accession to the above-mentioned Convention has been deferred pending receipt of the notification in respect of the specialized agencies to which the Government of Estonia will undertake to apply the Convention as required by Section 43, article XI, thereof. The deposit of the instrument of accession will be effected as soon as the notification is received by the Secretary-General;

- (iv) Vienna Convention on Diplomatic Relations, Optional Protocol to the Vienna Convention on Diplomatic Relations concerning Acquisition of Nationality and Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the Compulsory Settlement of Disputes, done at Vienna on 18 April 1961

In accordance with paragraph 2 of their respective articles 51, VI and VIII, the Convention and the two Protocols entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (v) Vienna Convention on Consular Relations, Optional Protocol to the Vienna Convention on Consular Relations concerning Acquisition of Nationality and Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes, done at Vienna on 24 April 1963

In accordance with paragraph 2 of their respective articles 77, VI and VIII, the Convention and the two Protocols entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (vi) Convention on Special Missions, and Optional Protocol to the Convention on Special Missions concerning the Compulsory Settlement of Disputes, adopted by the General Assembly of the United Nations on 8 December 1969

In accordance with paragraph 2 of their respective articles 53 and VII, the Convention and the Optional Protocol entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (vii) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973

In accordance with its article 17 (2), the Convention entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (viii) Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character, concluded at Vienna on 14 March 1975

The said Convention has not as yet entered into force. In accordance with its article 89 (1), the Convention will enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession, the instrument of accession by the Government of Estonia being the twenty-fifth instrument so deposited;



- (ix) Vienna Convention on Succession of States in respect of State Property, Archives and Debts, concluded at Vienna on 8 April 1983

The above-mentioned Convention has not as yet entered into force. In accordance with its article 50 (1), the Convention will enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession, the instrument of accession by the Government of Estonia being the first instrument so deposited;

- (x) Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948

In accordance with its article XIII, the Convention will enter into force for Estonia on the ninetieth day following the date of deposit of the instrument, i.e. on 19 January 1992.

Due note has also been taken of the objection contained in the instrument of accession by the Government of Estonia to a reservation made by the United States of America upon ratification of the Convention;

- (xi) International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature at New York on 7 March 1966

In accordance with its article 19 (2), the Convention entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (xii) International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966

In accordance with their respective articles 27 (2), 49 (2) and 9 (2), the two Covenants and the Optional Protocol will enter into force for Estonia three months after the date of deposit of the instrument, i.e. on 21 January 1992;

- (xiii) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the General Assembly of the United Nations on 26 November 1968

In accordance with its article VIII (2), the Convention will enter into force for Estonia on the ninetieth day after the date of deposit of the instrument, i.e. on 19 January 1992;

- (xiv) International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the General Assembly of the United Nations on 30 November 1973

In accordance with its article XV (2), the Convention will enter into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (xv) Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations on 18 December 1979

In accordance with its article 27 (2), the Convention entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (xvi) Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984

In accordance with its article 27 (2), the Convention entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (xvii) International Convention against Apartheid in Sports, adopted by the General Assembly of the United Nations on 10 December 1985

In accordance with its article 18 (2), the Convention entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (xviii) Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989

In accordance with its article 49 (2), the Convention entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;



- 7 -

- (xix) Vienna Convention on the Law of Treaties, concluded at Vienna on 23 May 1969

In accordance with its article 84 (2), the Convention entered into force for Estonia on the thirtieth day after the date of deposit of the instrument, i.e. on 20 November 1991;

- (xx) Vienna Convention on Succession of States in respect of Treaties, concluded at Vienna on 23 August 1978

The said Convention has not as yet entered into force. In accordance with its article 49 (1), the Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession, the instrument of accession by the Government of Estonia being the ninth instrument so deposited;

- (xxi) Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, concluded at Vienna on 21 March 1986

The said Convention has not as yet entered into force. In accordance with its article 85 (1), the Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession, the instrument of accession by the Government of Estonia being the fifteenth instrument so deposited.

All States concerned are being informed of the above.

2 December 1991 



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).

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.

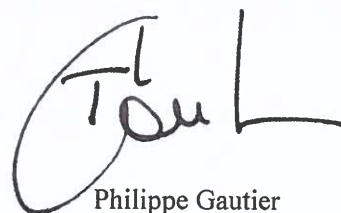
In the above-mentioned Application, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide Convention”) is invoked both as a basis of the Court’s jurisdiction and as a substantive basis of the Applicant’s claims on the merits. In particular, the Applicant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

J.

[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 'Philippe Gautier', written in a cursive style.

Philippe Gautier
Registrar