

INTERNATIONAL COURT OF JUSTICE

**APPLICATION OF THE CONVENTION ON THE PREVENTION AND
PUNISHMENT OF THE CRIME OF GENOCIDE IN THE GAZA STRIP**

(SOUTH AFRICA v. ISRAEL)

**DECLARATION OF INTERVENTION BY
THE REPUBLIC OF TÜRKİYE**

7 August 2024

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DECLARATION OF INTERVENTION OF THE REPUBLIC OF TÜRKİYE

Pursuant to Article 63 of the Statute of the International Court of Justice

in the case of

**APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT
OF THE CRIME OF GENOCIDE IN THE GAZA STRIP**

(SOUTH AFRICA v. ISRAEL)

**I. Declaration of Intervention of the Republic of Türkiye under Article 63 of the Statute of the
International Court of Justice**

1. The Government of the Republic of Türkiye has the honour to submit to the International Court of Justice (“the Court”) its declaration to intervene in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)* pursuant to Article 63 of the Statute of the Court.
2. Article 82 of the Rules of 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, following certain preliminary and general observations, addressed in sequence below.

4. Türkiye, by filing this Declaration, exercises its right conferred upon it by Article 63 of the Statute, to intervene in the proceedings as a Contracting Party to the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 (“the Genocide Convention” or “the Convention”).¹

II. General Observations and Context

5. As indicated by numerous resolutions of the UN Security Council and the General Assembly,² as well as the advisory opinions of the Court in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* and in *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem*,³ the Occupied Palestinian Territory has been under Israeli occupation for decades. On 9 October 2023, following the attack by Hamas on Israel on 7 October 2023, Israeli authorities announced, according to reports in the Israeli press, that they had “ordered a complete siege on the Gaza Strip” and that there would be “no electricity, no food, no fuel, everything is closed”.⁴ Israeli authorities were furthermore reported as declaring that they were “fighting human animals” and that they were “acting accordingly”.⁵

¹ Convention on the Prevention and Punishment of the Crime of Genocide (approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (III) of 9 December 1948, entered into force 12 January 1951), 78 UNTS 277.

² See, *inter alia*, UN Security Council Resolutions 242 (1967), 252 (1968), 338 (1973), 465 (1980), 1435 (2002), 2720 (2023); UN General Assembly Resolutions A/RES/ES-10/19; A/RES/ES-10/20.

³ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 166, para. 73; *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, Advisory Opinion*, 19 July 2024, pp. 33–47, paras. 103–156.

⁴ E. Fabian, “Defense minister announces ‘complete siege’ of Gaza: No power, food or fuel”, *The Times of Israel* (9 October 2023) [https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/]. See for the video of the announcement [<https://www.aljazeera.com/program/newsfeed/2023/10/9/israeli-defence-minister-orders-complete-siege-on-gaza>].

⁵ *Ibid.*

6. The Court itself,⁶ the UN Security Council,⁷ the General Assembly,⁸ UN officials,⁹ and many others have described as “catastrophic” the consequences of this siege warfare, which has directly and gravely impacted the humanitarian situation in the Gaza Strip.
7. The resulting humanitarian crisis in Gaza was recognized by the UN Security Council on 15 November 2023, when it called in its resolution 2712 for

“urgent and extended humanitarian pauses and corridors throughout the Gaza Strip for a sufficient number of days to enable, consistent with international humanitarian law, the full, rapid, safe, and unhindered humanitarian access for United Nations humanitarian agencies and their implementing partners, the International Committee of the Red Cross and other impartial humanitarian organizations, to facilitate the continuous, sufficient and unhindered provision of essential goods and services important to the well-being of civilians, especially children, throughout the Gaza Strip, including water, electricity, fuel, food, and medical supplies, as well as emergency repairs to essential infrastructure, and to enable urgent rescue and recovery efforts, including for missing children in damaged and destroyed buildings, and including the medical evacuation of sick or injured children and their care givers.”¹⁰

8. On 26 November 2023, an agreement was reached between the Government of Israel and Hamas for a four-day pause in fighting (extended by two days) and for the reciprocal release of hostages and prisoners held by both sides. UN Special Coordinator for the Middle East Peace Process, Tor Wennesland, while welcoming the four-day pause, described the humanitarian situation in Gaza as remaining catastrophic and requiring “the urgent entry of

⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, para. 72; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 28 March 2024, paras. 18, 30, and 46; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 24 May 2024, paras. 28 and 52.

⁷ UN Security Council Resolution 2728 (2024), 25 March 2024, S/RES/2728 (2024).

⁸ UN General Assembly Resolution on Protection of civilians and upholding legal and humanitarian obligations, adopted 27 October 2023, A/RES/ES-10/21.

⁹ See UN Secretary General’s press encounter on Gaza, 18 March 2024, underlying that “more than half of all Palestinians in Gaza — 1.1 million people — have completely exhausted their food supplies and are facing catastrophic hunger” according to the latest report on food insecurity in Gaza, [<https://www.un.org/sg/en/content/sg/press-encounter/2024-03-18/secretary-generals-press-encounter-gaza>]; Letter dated 6 December 2023 from the Secretary-General addressed to the President of the Security Council, S/2023/962; Statement by UN Special Coordinator for the Middle East Peace Process, Tor Wennesland, on the period of paused fighting in Gaza and Israel Jerusalem, 28 November 2023, [<https://www.un.org/unispal/document/statement-by-un-special-coordinator-for-the-middle-east-peace-process-tor-wennesland-on-the-period-of-paused-fighting-in-gaza-and-israel/>].

¹⁰ UN Security Council Resolution 2712 (2023), 15 November 2023, S/RES/2712 (2023), para. 2.

additional aid and supplies in a smooth, predictable, and continuous manner to alleviate the unbearable suffering of Palestinians in Gaza.”¹¹

9. The Government of Israel continued its attack against the Gaza Strip despite UN Security Council resolution 2712 (2023) calling on all parties to refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance indispensable to their survival. In response to the disproportionate effect of the conflict on the lives of civilians in the Gaza Strip, the UN Security Council on 22 December 2023 adopted resolution 2720 (2023), in which it expressed its “*deep concern* at the dire and rapidly deteriorating humanitarian situation in the Gaza Strip and its grave impact on the civilian population, underlining the urgent need for full, rapid, safe, and unhindered humanitarian access into and throughout the entire Gaza Strip”.¹²
10. There followed UN Security Council resolution 2728 (2024), adopted on 25 March 2024, in which the Council expressed its “deep concern about the catastrophic humanitarian situation in the Gaza Strip” and demanded “an immediate ceasefire for the month of Ramadan respected by all parties leading to a lasting sustainable ceasefire” as well as “the immediate and unconditional release of all hostages”.¹³ The resolution emphasized the urgent need to expand the flow of humanitarian assistance to and reinforce the protection of civilians in the entire Gaza Strip and reiterated its demand for the lifting of all barriers to the provision of humanitarian assistance at scale, in line with international humanitarian law as well as resolutions 2712 (2023) and 2720 (2023).¹⁴
11. The General Assembly, on 12 December 2023, described the situation in the Gaza Strip as “catastrophic” in its resolution ES-10/22. The Assembly expressed its “grave concern over the catastrophic humanitarian situation in the Gaza Strip and the suffering of the Palestinian

¹¹ Statement by UN Special Coordinator for the Middle East Peace Process, Tor Wennesland, on the period of paused fighting in Gaza and Israel Jerusalem, 28 November 2023, [<https://www.un.org/unispal/document/statement-by-un-special-coordinator-for-the-middle-east-peace-process-tor-wennesland-on-the-period-of-paused-fighting-in-gaza-and-israel/>].

¹² UN Security Council Resolution 2720 (2023), 22 December 2023, S/RES/2720 (2023), p. 1. (emphasis in original).

¹³ UN Security Council Resolution 2728 (2024), 25 March 2024, S/RES/2728 (2024), para. 1

¹⁴ *Ibid.*, para. 2.

civilian population” and emphasized that “the Palestinian and Israeli civilian populations must be protected in accordance with international humanitarian law”.¹⁵

12. On 29 December 2023, South Africa filed in the Registry of the Court an Application instituting proceedings against the State of Israel alleging violations by the latter, in the Gaza Strip, of its obligations under the Genocide Convention. The Application filed by South Africa contained a Request for the indication of provisional measures, pursuant to Article 41 of the Statute of the Court and Articles 73, 74, and 75 of the Rules of Court.¹⁶

13. The Court held oral proceedings on the Request on 11 and 12 January 2024. It rendered its decision on the Request on 26 January 2024.¹⁷ According to the Court,

“the facts and circumstances are sufficient to conclude that at least some of the rights claimed by South Africa and for which it is seeking protection are plausible. This is the case with respect to the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts identified in Article III, and the right of South Africa to seek Israel’s compliance with the latter’s obligations under the Convention.”¹⁸

14. The Court indicated the following provisional measures:

- (a) Israel must, in accordance with its obligations under the Genocide Convention, in relation to the Palestinians in Gaza, take all measures within its power to prevent the commission of all acts within the scope of Article II of the Convention, in particular:
 - (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; and
 - (d) imposing measures intended to prevent births within the group.The Court recalled that these acts fell within the scope of Article II of the Convention when they are committed with the intent to destroy in whole or in part a group as such. The Court

¹⁵ UN General Assembly Resolution adopted on 12 December 2023, A/RES/ES-10/22, Chapeau, p. 1.

¹⁶ Application instituting proceedings submitted by South Africa on 29 December 2023 (“Application”).

¹⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024.

¹⁸ *Ibid.*, para. 54.

further considered that Israel must ensure with immediate effect that its military forces do not commit any of the above-described acts.

- (b) Israel must take all measures within its power to prevent and punish the direct and public incitement to commit genocide in relation to members of the Palestinian group in the Gaza Strip.
- (c) Israel must take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by the Palestinians in the Gaza Strip.
- (d) Israel must also take effective measures to prevent the destruction, and ensure the preservation of, evidence related to allegations of acts within the scope of Article II and Article III of the Genocide Convention against members of the Palestinian group in the Gaza Strip.¹⁹

15. Furthermore, pursuant to its powers under Article 78 of its Rules, the Court ordered Israel to submit to it, within one month of the date of its Order, a report on all the measures taken to give effect to the Order.²⁰

16. Following the Israeli assault on Rafah on 11 February 2024, South Africa submitted on 12 February 2024 an urgent request for additional measures under Article 75, paragraph 1, of the Rules of Court, “to prevent a further imminent breach of the rights of Palestinians in Gaza”.²¹ The Court rendered its decision on the request, which it communicated to South Africa by letter on 16 February 2024, finding that the situation did not at that time demand the indication of additional provisional measures. The Court recalled, however, that the State of Israel remained bound fully to comply with its previous Order.²²

17. On 6 March 2024, South Africa filed, in light of the new facts, a request for additional measures from the Court pursuant to Article 41 of the Statute of the Court and Article 75 and

¹⁹ *Ibid.*, para. 86(1)–(5).

²⁰ *Ibid.*, para. 86(6).

²¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Urgent Request for Additional Measures Under Article 75(1) of the Rules of Court of the International Court of Justice, 12 February 2024, p. 2, para. 10.

²² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Decision of the Court on South Africa’s request for additional provisional measures, Press release No. 2024/16, 16 February 2024.

76 of the Rules of Court.²³ In its request, South Africa enumerated among the new facts that “Palestinians in Gaza are no longer at ‘immediate *risk* of death by starvation.’ At least 15 Palestinian children — including babies — in Gaza have *already* died of starvation in the past week alone, with the actual numbers believed to be much higher.”²⁴ South Africa further stated in support of its request that “Palestinian children are starving to death as a direct result of the deliberate acts and omissions of Israel — in violation of the Genocide Convention and of the Court’s Order.”²⁵ South Africa also cited the “deliberate attempts to cripple the United Nations Relief and Works Agency (‘UNRWA’), on whom the vast majority of besieged, displaced and starving Palestinian men, women, children and babies depend for their survival.”²⁶ South Africa drew attention to the UN Special Rapporteur on the Right to Food warning on 3 March 2024 that “famine may very well be already occurring” due to Israel “intentionally starving the Palestinian people in Gaza”, and that “the only way to end/prevent this famine is an immediate ceasefire.”²⁷

18. The Court rendered its decision granting South Africa’s request for additional measures on 28 March 2024. In its Order, the Court took into account new circumstances “that earlier, on 15 March 2024, the United Nations Children’s Fund (UNICEF) reported that 31 per cent of children under 2 years of age in the northern Gaza Strip suffered from acute malnutrition, ‘a staggering escalation from 15.6 per cent in January’, and warned that ‘[m]alnutrition among children is spreading fast and reaching devastating and unprecedented levels in the Gaza Strip due to the wide-reaching impacts of the war and ongoing restrictions on aid delivery.’”²⁸

19. The Court also observed “that Palestinians in Gaza are no longer facing only a risk of famine, as noted in the Order of 26 January 2024, but that famine is setting in, with at least 31 people, including 27 children, having already died of malnutrition and dehydration according to the

²³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Urgent request and application for the indication of additional provisional measures and the modification of the Court’s prior provisional measures decisions pursuant to Article 41 of the Statute of the International Court of Justice and Articles 75 and 76 of the Rules of Court of the International Court of Justice, 6 March 2024.

²⁴ *Ibid.*, para. 7.

²⁵ *Ibid.*, para. 8.

²⁶ *Ibid.*

²⁷ *Ibid.*, para. 10.

²⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 28 March 2024, para. 20.

United Nations Office for the Coordination of Humanitarian Affairs (OCHA) (OCHA, ‘Hostilities in the Gaza Strip and Israel-reported impact, Day 169’, 25 March 2024)’.²⁹

20. The Court characterized the developments as “exceptionally grave” and of such a nature as to “constitute a change in the situation within the meaning of Article 76 of the Rules of Court”.³⁰ The Court ordered the following additional measures:

“In conformity with its obligations under the Genocide Convention, and in view of the worsening conditions of life faced by Palestinians in Gaza, in particular the spread of famine and starvation, Israel shall: (a) take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary; and (b) ensure with immediate effect that its military does not commit acts which constitute a violation of any of the rights of the Palestinians in Gaza as a protected group under the Genocide Convention, including by preventing, through any action, the delivery of urgently needed humanitarian assistance. [...] The Court further considers that the catastrophic situation in the Gaza Strip confirms the need for immediate and effective implementation of the measures indicated in its Order of 26 January”.³¹

21. UN institutions, most prominently the WHO, have been reporting that, since the Court issued its order for additional measures dated 28 March 2024, the humanitarian crisis in Gaza has continued and has worsened. In its May 2024 report, the WHO reported that in the Gaza Strip 31 patients reportedly died of malnutrition, 71 patients were admitted for severe malnutrition and that only 39 per cent of hospitals in Gaza were partially functioning, with an average bed occupancy of 439 per cent.³² The WHO has described the situation as the “continued dismantling of the health system.”³³ As of 15 June 2024, the WHO reported some 38,713 fatalities, 89,166 injuries, and over 10,000 missing persons under the rubble.³⁴ The WHO reported that a total of 987 “health attacks” took place: 475 in the Gaza Strip and 512

²⁹ *Ibid.*, para. 21.

³⁰ *Ibid.*, para. 22.

³¹ *Ibid.*, paras. 45–46.

³² WHO oPt Emergency Situation Update, Issue 32, 7 October 2023–30 May 2024, [https://www.emro.who.int/images/stories/Sitrep_-_issue_32c.pdf?ua=1].

³³ *Ibid.*

³⁴ WHO oPt Emergency Situation Update, Issue 36, 7 October 2023–15 July 2024, [https://www.emro.who.int/images/stories/Sitrep_-_issue_36c.pdf?ua=1].

in the West Bank, including East Jerusalem as of 12 July 2024.³⁵ It also reported that hospitals in Rafah are overwhelmed and struggling to keep up with needs.³⁶

22. Despite strong international condemnation, Israeli government spokesperson David Mencer announced, on 24 April 2024, that Israel was “moving ahead” with its planned military operation in the southern Gaza city of Rafah, where 1,5 million people had taken refuge after being displaced by the Israeli attacks on Gaza³⁷. This intent was affirmed by Prime Minister Benjamin Netanyahu, who announced that Israel would, regardless of truce talks, proceed to launch an attack on Rafah.³⁸

23. South Africa, in reaction to the ground incursion of Israel’s military forces into Rafah on 7 May 2024 and the taking control of both the Rafah and the Kerem Shalom (Karem Abu Salem) crossings, submitted to the Court on 10 May 2024 an “urgent Request for the modification and indication of provisional measures” pursuant to Article 41 of the Statute and Articles 75 and 76 of the Rules of Court.³⁹ According to South Africa, the change of circumstance stemmed from the Israeli incursion into Rafah and

“[t]he current situation and the risks that Israel’s military assault on Rafah pose to the very survival of Palestinians in Gaza as a group do not represent a mere escalation of the already extreme pre-existing situation before the Court on 12 February 2024 when the Court issued its previous decision relating to the threat of a military offensive against Rafah. In attacking Rafah, Israel is attacking the ‘last refuge’ in Gaza, and the only remaining area of the Strip which has not yet been substantially destroyed by Israel. With Rafah’s destruction, the destruction of Gaza itself will be complete.”⁴⁰

24. With these observations, South Africa requested the Court to order that Israel:

³⁵ WHO oPt Emergency Situation Update, Issue 36, 7 October 2023–15 July 2024, [https://www.emro.who.int/images/stories/Sitrep_-_issue_36c.pdf?ua=1].

³⁶ WHO oPt Emergency Situation Update, Issue 33, 7 October 2023–6 June 2024, [https://www.emro.who.int/images/stories/Sitrep_-_issue_33.pdf?ua=1&ua=1].

³⁷ [<https://www.euronews.com/2024/04/25/israel-moving-ahead-with-rafah-offensive-to-target-hamas>].

³⁸ M. Murphy, “Gaza: Israeli PM Netanyahu says Rafah attack will happen regardless of deal”, BBC News, 30 April 2024, [<https://www.bbc.com/news/world-middle-east-68928996>]; [<https://x.com/netanyahu/status/1785264786596401363>].

³⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Urgent request for the modification and indication of provisional measures pursuant to Article 41 of the Statute of the International Court of Justice and Articles 75 and 76 of the Rules of Court of the International Court of Justice, 10 May 2024.

⁴⁰ *Ibid.*, para. 16.

- (a) immediately withdraw and cease its military offensive in the Rafah Governorate;
- (b) immediately take all effective measures to ensure and facilitate the unimpeded access to Gaza of United Nations and other officials engaged in the provision of humanitarian aid and assistance to the population of Gaza, as well as fact-finding missions, internationally mandated bodies or officials, investigators, and journalists, in order to assess and record conditions on the ground in Gaza and enable the effective preservation and retention of evidence, and shall ensure that its military does not act to prevent such access, provision, preservation or retention; and to
- (c) submit an open report to the Court: (a) on all measures taken to give effect to these provisional measures within one week as from the date of this Order; and (b) on all measures taken to give effect to all previous provisional measures indicated by the Court within one month as from the date of this Order.⁴¹

25. The Court, in its order for additional measures dated 24 May 2024, noting the catastrophic humanitarian situation that already existed in the Gaza Strip at the time of its Order of 26 January 2024, observed that “the concerns that it expressed in its decision communicated to the Parties on 16 February 2024 with respect to the developments in Rafah have materialized, and that the humanitarian situation is now to be characterized as disastrous”.⁴²

26. The Court first reaffirmed that the provisional measures indicated in its Orders of 26 January 2024 and 28 March 2024 were to be immediately and effectively implemented.⁴³ The Court proceeded to indicate the following measures: “[t]he State of Israel shall, in conformity with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, and in view of the worsening conditions of life faced by civilians in the Rafah Governorate”:

- (a) immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part;

⁴¹ *Ibid.*, para. 25.

⁴² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 24 May 2024, para. 28.

⁴³ *Ibid.*, para. 57(1).

- (b) maintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance; and
- (c) take effective measures to ensure the unimpeded access to the Gaza Strip of any commission of inquiry, fact-finding mission or other investigative body mandated by competent organs of the United Nations to investigate allegations of genocide.
- (d) that the State of Israel shall submit a report to the Court on all measures taken to give effect to this Order, within one month as from the date of this Order.⁴⁴

27. The State of Israel has submitted two reports on all measures taken to give effect to the Court's Order on the indication of provisional measures of 28 March 2024, pursuant to paragraph 51, paragraph 3.⁴⁵

28. Türkiye also takes note of the recent Advisory Opinion delivered by the Court on 19 July 2024 pursuant to the UN General Assembly resolution 77/247 adopted on 30 December 2022.⁴⁶ The Advisory Opinion includes certain findings that may be of relevance for the Court in its construction of the Genocide Convention in this case, such as the legal status of the Gaza Strip under international law.

29. In its Advisory Opinion, the Court considered that "Israel's withdrawal from the Gaza Strip has not entirely released it of its obligations under the law of occupation."⁴⁷ The Court further found that Israel's legislation and measures constitute a breach of Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, which provides that "States Parties particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction".⁴⁸

⁴⁴ *Ibid.*, para. 57(2)–(3).

⁴⁵ The State of Israel submitted a report on 26 February 2024 and 29 April 2024: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 24 May 2024, paras. 9 and 12.

⁴⁶ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem*, Advisory Opinion, 19 July 2024.

⁴⁷ *Ibid.*, para. 94.

⁴⁸ *Ibid.*, para. 229.

III. The Case and Convention to which this Declaration Relates

30. On 6 February 2024, as provided for in Article 63, paragraph 1, of the Statute of the Court, the Registrar duly notified the States parties to the Genocide Convention.⁴⁹ The Republic of Türkiye seeks to exercise its right to intervene under Article 63, paragraph 2, of the Statute of the Court and thereby to contribute to the construction of certain provisions of the Convention which are relevant to the case.

31. This Declaration relates to the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip*, instituted by South Africa on 29 December 2023 against the State of Israel alleging violations by the latter, in the Gaza Strip, of its obligations under the Genocide Convention.

IV. The Basis upon which the Republic of Türkiye is a Party to the Convention

32. The Republic of Türkiye became a party to the Genocide Convention on 31 July 1951.⁵⁰ It has not made any reservation or declaration to the Convention, nor has it objected to a reservation made by any other party. The requirement stipulated in Article 82 of the Rules of Court is accordingly met.

V. Provisions of the Genocide Convention the Construction of which the Republic of Türkiye Considers to be in Question

33. In its Application, South Africa submitted that

“the conduct of Israel — through its State organs, State agents, and other persons and entities acting on its instructions or under its direction, control or influence — in relation to Palestinians in Gaza, is in violation of its obligations under the Genocide Convention, including Articles I, III, IV, V and VI, read in conjunction with Article II.”⁵¹

34. South Africa’s application raises the question of whether Israel’s organs and agents, as well as other affiliated entities: failed to prevent genocide in violation of Article I; committed

⁴⁹ See Annex A of the present declaration.

⁵⁰ See Annex B of the present declaration.

⁵¹ Application, para. 110.

genocide (Article III (a)); conspired to commit genocide (Article III (b)); directly and publicly incited the commission of genocide (Article III (c)); attempted to commit genocide (Article III (d)); were complicit in genocide (Article III (e)); failed to prosecute and punish individuals committing genocide or any of the other acts enumerated in article III (Article IV and VI); failed to “to enact the necessary legislation to give effect to the provisions of the Genocide Convention and to provide effective penalties for persons guilty of genocide”⁵² (Article V); and failed “to allow and/or directly or indirectly impeding the investigation by competent international bodies or fact-finding missions of genocidal acts committed against Palestinians in Gaza, including those Palestinians removed by Israeli State agents or forces to Israel, as a necessary and corollary obligation pursuant to Articles I, III, IV, V and VI”.⁵³

35. The Republic of Türkiye considers that the proper construction of Articles I, II, III, IV, V and VI of the Genocide Convention is in question in the case and is directly relevant to the resolution of the dispute placed before the Court by South Africa’s Application.

VI. Statement of the Construction of Those Provisions for which the Republic of Türkiye Contends

36. The Republic of Türkiye is of the view that the Genocide Convention must be interpreted in accordance with the customary international law rules on treaty interpretation. The Court considers Articles 31–33 of the Vienna Convention on the Law of Treaties⁵⁴ to be a reflection of customary international law.⁵⁵ According to those rules, a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its object and purpose.⁵⁶ It follows that the ordinary meaning of a term cannot be understood in isolation; the meaning of a treaty provision can be accurately identified only when it is considered in relation to the other provisions of the treaty, within

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331.

⁵⁵ See, e.g., *Legality of Use of Force (Serbia and Montenegro v. Belgium)*, Preliminary Objections, Judgment, *I.C.J. Reports 2004*, p. 318, para. 100; *LaGrand (Germany v. United States of America)*, Judgment, *I.C.J. Reports 2001*, pp. 501–502, paras. 99–101.

⁵⁶ *Territorial Dispute (Libyan Arab Jamahiriya v. Chad)*, Judgment, *I.C.J. Reports 1994*, p. 21, para. 41.

the context of the entire treaty.⁵⁷ Furthermore, as the Court noted in *Namibia*, “an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing at the time of the interpretation”.⁵⁸

37. The Republic of Türkiye, like the Court in its advisory opinion on *Reservations to the Genocide Convention*, considers that the object of the Genocide Convention is to “safeguard the very existence of certain human groups” and to “confirm and endorse the most elementary principles of morality”.⁵⁹

38. Consulting the drafting history of a treaty may serve a supplementary function and is warranted only under specific conditions. The preparatory work of the treaty may assist in confirming the meaning resulting from the process of interpretation by reference to the elements set out in the general rule of treaty interpretation in Article 31.⁶⁰ It can also remove ambiguity or obscurity, or avoid a manifestly absurd or unreasonable result.⁶¹

39. Türkiye welcomes the fact that the Court — “the principal judicial organ of the United Nations”⁶² and “the organ” of international law⁶³ — effectively uses information, evidence, and reports provided by the United Nations, its agencies, and mechanisms in the determination of whether the acts described in Article II of the Convention have actually taken place. Türkiye is of the opinion that, in the present proceedings, this course of action is particularly appropriate in the examination of findings by impartial investigations made by UN agencies.

⁵⁷ *Competence of the International Labour Organisation, Advisory Opinion*, P.C.I.J., Series B, No. 2, p. 23; *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Preliminary Objections, Judgment*, I.C.J. Reports 2017, p. 40, para. 98.

⁵⁸ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion*, I.C.J. Reports 1971, p. 31, para. 53; see also *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion*, I.C.J. Reports 1980, p. 76, para. 10.

⁵⁹ *Reservations to the Convention on Genocide, Advisory Opinion*, I.C.J. Reports 1951, p. 23.

⁶⁰ *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates), Preliminary Objections, Judgment*, I.C.J. Reports 2021, pp. 95–96, para. 76.

⁶¹ *Ibid.*

⁶² Art. 92, Charter of the United Nations.

⁶³ *Corfu Channel case, Judgment of April 9th, 1949*, I.C.J. Reports 1949, p. 35.

A. Construction of Article I of the Genocide Convention

40. 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.”

41. By confirming that genocide is a crime that can be committed “in time of peace or in time of war”, Article I clarifies that a nexus with war or armed conflict is not required for the crime of genocide to occur. Furthermore, it also establishes that the existence of war or armed conflict does not justify the commission of genocide or constitute a legitimate defence — even in circumstances in which the right to self-defence is said to be exercised. Moreover, it is important to note that the Court has observed in its advisory opinions of 9 July 2004 and 19 July 2024 that the exercise of self-defence is not legally applicable in the Gaza Strip due to the ongoing occupation.⁶⁴

42. As the Court previously observed in *the Bosnian Genocide Case*, Article I is not of a merely exhortative nature; it imposes a clear legal obligation upon States parties to prevent and punish genocide:

“The ordinary meaning of the word ‘undertake’ is to give a formal promise, to bind or engage oneself, to give a pledge or promise, to agree, to accept an obligation. [...] It is not merely hortatory or purposive. The undertaking is unqualified [...] and it is not to be read merely as an introduction to later express references to legislation, prosecution and extradition. Those features support the conclusion that Article I, in particular its undertaking to prevent, creates obligations distinct from those which appear in the subsequent Articles.”⁶⁵

⁶⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, pp. 194–95, paras. 138–142; see also *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, Advisory Opinion*, 19 July 2024, pp. 33–47, paras. 103–156.

⁶⁵ *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. 111, para. 162.

43. Furthermore, the obligations of “prevention” and “punishment”, despite being associated with each other, constitute two distinct obligations. As the Court has observed, “the obligation on each contracting State to prevent genocide is both normative and compelling. It is not merged in the duty to punish, nor can it be regarded as simply a component of that duty.”⁶⁶
44. While the Convention, through its Articles IV to VI, qualifies and circumscribes the scope of the duty to punish genocide significantly, Article I provides more than an introductory role in relation to this duty. Given that Article I “does impose distinct obligation over and above those imposed by other Articles of the Convention”,⁶⁷ the duty to prevent extends beyond the elaborations provided in other Articles of the Convention as a standalone duty. This requires State Parties to act in good faith by taking all the necessary measures in order to fulfil this duty. State Parties cannot use their national laws or subjective practices to justify their inaction to punish the perpetrators of genocide.⁶⁸
45. The scope of the duty to prevent, which appears as one of the main issues to be construed in the instant proceedings, is not particularized by the Convention in any detail; it is developed in the jurisprudence of the Court.
46. The Court has established that the obligation on the States parties to the Genocide Convention to prevent genocide requires them to make use of all available and reasonable means to prevent genocide — so long as those means are within the limits permitted by international law.⁶⁹ The extent of a State’s duty to prevent genocide is furthermore necessarily subject to its capacity. In *the Bosnian Genocide Case*, the Court noted that

“Various parameters operate when assessing whether a State has duly discharged the obligation concerned. The first, which varies greatly from one State to another, is clearly the capacity to influence effectively the action of persons likely to commit, or already committing, genocide. This capacity itself depends, among other things, on the geographical distance of the State concerned from the scene of the events, and on the strength of the political links, as well as links of all other kinds, between the authorities

⁶⁶ *Ibid.*, pp. 219–220, para. 427.

⁶⁷ *Ibid.*, p. 113, para. 165.

⁶⁸ ILC, Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal, *Yearbook of the International Law Commission*, 1950, vol. II, p. 374, para. 99.

⁶⁹ *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. 221, para. 430.

of that State and the main actors in the events. The State's capacity to influence must also be assessed by legal criteria, since it is clear that every State may only act within the limits permitted by international law; seen thus, a State's capacity to influence may vary depending on its particular legal position vis-à-vis the situations and persons facing the danger, or the reality, of genocide."⁷⁰

47. In the construction of Article I, and in light of the facts of this case, Türkiye recalls that the Court, in its Advisory Opinion of 19 July 2024 considered "that Israel remained capable of exercising, and continued to exercise, certain key elements of authority over the Gaza Strip, including control of the land, sea and air borders, restrictions on movement of people and goods, collection of import and export taxes, and military control over the buffer zone, despite the withdrawal of its military presence in 2005. This is even more so since 7 October 2023."⁷¹

48. As to the duty to prevent, the Court has also recognized that the obligation in question is one of conduct, and that a State

"does not incur responsibility simply because the desired result is not achieved; responsibility is however incurred if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide. In this area, the notion of 'due diligence', which calls for an assessment *in concreto*, is of critical importance".⁷²

49. The obligation to prevent occurs the moment when the State comes into knowledge or should normally have known the existence of a serious risk that genocide will be committed. In this sense, this obligation

"has its own scope, which extends beyond the particular case envisaged in Article VIII, namely reference to the competent organs of the United Nations, for them to take such action as they deem appropriate. Even if and when these organs have been called upon, this does not mean that the States parties to the Convention are relieved of the obligation to take such action as they can to prevent genocide from occurring, while respecting the United Nations Charter and any decisions that may have been taken by its competent organs."⁷³

⁷⁰ *Ibid.*, p. 221, para. 430.

⁷¹ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, Advisory Opinion*, 19 July 2024, para. 93.

⁷² *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. 221, para. 430.

⁷³ *Ibid.*, pp. 219–220, para. 427.

50. The Court also observed that for a State party to be held responsible for its breach of the obligation to prevent genocide, the crime of genocide must in fact have been committed.⁷⁴ However, the Court clarified that “this obviously does not mean that the obligation to prevent genocide only comes into being when perpetration of genocide commences; that would be absurd, since the whole point of the obligation is to prevent, or attempt to prevent, the occurrence of the act. In fact, a State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.”⁷⁵
51. In Türkiye’s view, a factor to be taken into consideration for the construction of Article 1, would be a finding by a Court or a tribunal that there was sufficient evidence to conclude as plausible that a State has violated Article 1 of the Convention in granting a request for provisional measures, such as in the case brought by South Africa against Israel. In this case, such date could be as of 26 January 2024, where the Court found that “the facts and circumstances [...] are sufficient to conclude that at least some of the rights claimed by South Africa and for which it is seeking protection are plausible. This is the case with respect to the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts identified in Article III, and the right of South Africa to seek Israel’s compliance with the latter’s obligations under the Convention.”⁷⁶
52. As regards the interpretation of the duty to prevent genocide under Article I, Türkiye submits that, as the Court advised in *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, “a rule of international law, whether customary or conventional, does not operate in a vacuum; it operates in relation to facts and in the context of a wider framework of legal rules of which it forms only a part”.⁷⁷ As regards the construction of the duty to prevent genocide under Article I in the present case, such facts include in particular the

⁷⁴ *Ibid.*, p. 222, para. 431.

⁷⁵ *Ibid.*

⁷⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 26 January 2024, para. 54.

⁷⁷ *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt, Advisory Opinion, I.C.J. Reports 1980*, p. 76, para. 10 (emphasis added).

actions of Israel that followed the Court’s Order of 26 January 2024.⁷⁸ Such subsequent actions include, but are not limited to:

- (a) the continued escalation of hostilities perpetrated by Israel in the Gaza Strip despite the continuous warnings of humanitarian disastrous consequences from UN organizations, the UN Secretary General, and UN General Assembly Resolutions;
- (b) the “repeated large-scale displacement of the already extremely vulnerable Palestinian population,”⁷⁹ South Africa having drawn to the Court’s attention that Israel “had no plan in place to accommodate the hundreds of thousands of Palestinians ordered to flee Rafah and other areas in early May 2024 just like it had no plan to accommodate those forced to flee as a result of previous evacuation orders”;⁸⁰
- (c) the continual blocking of humanitarian aid and direly needed food supplies, despite warnings by the WHO of imminent famine;⁸¹ and
- (d) the intentional bombing and destruction of much of the health care infrastructure in the face of the mounting numbers of fatalities and injuries caused.

53. Other factual elements that the Court may consider in the construction Article 1 in relation to the duties to not commit genocide and to prevent genocide, includes the prevention of access to information by a State concerning the situation on the ground, thereby allowing for the covering up or destruction of factual evidence. This is done by active interference with access of journalists on the ground operation, as well as targeting or failing to protect journalists. For example, as reported by the UN “125 journalists and media workers [were] killed, including 15 women”.⁸²

54. A particular question previously raised before the Court related to the fact that neither Article I nor any other provision of the Convention expressly provides for a duty not to commit the

⁷⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures*, Order of 26 January 2024, para. 59.

⁷⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order of 24 May 2024, para. 29.

⁸⁰ *Ibid.*, para. 37.

⁸¹ WHO oPt Emergency Situation Update, Issue 18, As of 23 December 2023, [https://www.emro.who.int/images/stories/Sitrep_-_issue_18b.pdf?ua=1].

⁸² United Nations Information System on the Question of Palestine, “Hostilities in the Gaza Strip – Reported Humanitarian Impact, 12 March 2024” [https://www.un.org/unispal/wp-content/uploads/2024/03/Gaza_casualties_info-graphic_12_March_2024.pdf].

crime of genocide. This gave rise to the argument that the Convention did “not provide for the responsibility of States for acts of genocide as such”.⁸³ A duty not to commit genocide, however, inheres in the obligation to prevent the commission of acts of genocide. As the Court emphasized in *the Bosnian Genocide Case*,

“[i]t would be paradoxical if States were thus under an obligation to prevent, so far as within their power, commission of genocide by persons over whom they have a certain influence, but were not forbidden to commit such acts through their own organs, or persons over whom they have such firm control that their conduct is attributable to the State concerned under international law.”⁸⁴

55. As regards the question of State responsibility, Türkiye will be pleased to make, at this point, two general observations.

56. First, Türkiye recalls that the existence of genocide as a crime entails criminal responsibility of individuals. States, as legal entities, cannot form the required intent or act *per se* as abstract entities. That having been said, and as the Court has confirmed, genocide constitutes an internationally wrongful act, which can trigger international responsibility of a State under the customary rules of State responsibility. When the requirement of attribution is met, individual and State responsibility may be simultaneously established, thereby allowing for both the State and the individual to be held accountable for the same act under international law.⁸⁵

57. Second, the three-pronged test established by the Court in *the Bosnian Genocide Case* for the determination of State responsibility should also be applied to the present case:

- (a) First, the Court is required to determine the attributability of the acts of genocide to the Respondent under rules of State responsibility, i.e. “ascertaining whether the acts were committed by persons or organs whose conduct is attributable”.⁸⁶

⁸³ *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. 108, para. 156.

⁸⁴ *Ibid.*, p. 113, para. 166.

⁸⁵ *Ibid.*, p. 114, 115, and 117, paras. 168, 170, and 173.

⁸⁶ *Ibid.*, p. 199, para. 379.

- (b) Second, the Court will determine whether the acts or other acts referred to in Article III, paragraphs (b)–(e), “were committed by persons or organs whose conduct is attributable to the Respondent under those same rules of State responsibility.”⁸⁷
- (c) Third, “it will be for the Court to rule on the issue as to whether the Respondent complied with its twofold obligation deriving from Article I of the Convention to prevent and punish genocide.”⁸⁸

58. In light of these observations, Türkiye would draw attention to the following acts as relevant to the construction of Article I in connection with the application of State responsibility and attribution. First, the killing of nearly 40,000 civilians in nine months,⁸⁹ the majority reported to be women and children, by the military forces of Israel operating under the command and control of the Israeli government. Second, the systematically planned and orchestrated attacks on the Gaza Strip by the Israeli government. For example, on 9 October 2023 Israeli Minister Yoav Gallant ordered a complete blockade that included a ban on food, electricity and fuel.⁹⁰ On 13 October 2023 Israeli Government ordered 1.1 million people in the North of Gaza to move south within 24 hours, purportedly for their own safety.⁹¹ Stéphane Dujarric, spokesperson of the Secretary-General, issued a statement that “it was impossible for such a movement to take place without devastating humanitarian consequence”.⁹²

59. The UN further reported that “international law requires that any lawful temporary evacuation by Israel, as the occupying power, of an area on the basis of the security of the population or imperative military reasons must be accompanied by the provision of proper accommodation for all evacuees, undertaken under satisfactory conditions of hygiene, health, safety and nutrition. There appears to have been no attempt by Israel to ensure this for the 1.1 million civilians ordered to move. We are concerned that this order combined with

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ UN Office for the Coordination of Humanitarian Affairs, Reported Impact Snapshot Gaza Strip, 19 June 2024, [<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-19-june-2024>].

⁹⁰ [<https://www.aljazeera.com/news/2023/10/9/israel-announces-total-blockade-on-gaza>].

⁹¹ [<https://www.un.org/sg/en/content/sg/articles/2023-10-13/why-israel-must-reconsider-its-gaza-evacuation-order>].

⁹² Note to Correspondents on Gaza, 12 October 2023, Stéphane Dujarric, Spokesman for the Secretary-General, [https://www.un.org/sg/en/content/sg/note-correspondents/2023-10-12/note-correspondents-gaza?_gl=1%2A1io1s6i%2A_ga%2ANzgyMTU1MjMzLjE3MDMwNTAzOTA.%2A_ga_S5EKZKSB78%2AMTcyMTYzNzgwMC4xMS4xLjE3MjE2Mzc4MDEuNTkuMC4w%2A_ga_TK9BQL5X7Z%2AMTcyMTYzNzgwMC42Ni4wLjE3MjE2Mzc4MDAuMC4wLjA].

the imposition of a ‘complete siege’ on Gaza may not be considered as lawful temporary evacuation and would therefore amount to a forcible transfer of civilians – in breach of international law.”⁹³

60. Once again, in May 2024, the Government of Israel ordered the evacuation of Gaza’s southern city of Rafah,⁹⁴ and again in July of the same year the Israeli government ordered all Palestinians to leave the urban area of Gaza City.⁹⁵ The UN Human Rights Office report issued on 19 June 2024 stated that “the Israeli Defence Forces have systematically failed to comply with the following fundamental principles of international humanitarian law in its conduct of hostilities in Gaza since 7 October”.⁹⁶

61. In the present case, the Court may in connection with the question of State responsibility pay particular attention to whether the alleged acts of genocide in the Gaza Strip committed by State agents or other individuals whose acts are attributable to the State have been orchestrated in a systematic manner within the government apparatus of the Respondent. Moreover, the Court may further examine whether knowledge of the purpose and object of the acts have been shared at the highest level of government.⁹⁷

B. Construction of Article II of the Genocide Convention

62. Article II of the Convention reads as follows:

“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;

⁹³[<https://www.un.org/unispal/document/4200-people-killed-over-one-million-people-displaced-in-just-10-days-ohchr-briefing/>].

⁹⁴[<https://www.bbc.com/news/world-middle-east-68964103>].

⁹⁵[<https://www.france24.com/en/live-news/20240710-israel-army-tells-all-gaza-city-residents-to-flee-heavy-battles>].

⁹⁶ Thematic report–Indiscriminate and disproportionate attacks during the conflict in Gaza (October–December 2023), 19 June 2024, p. 10,

[<https://www.ohchr.org/sites/default/files/documents/countries/opt/20240619-ohchr-thematic-report-indiscrim-disprop-attacks-gaza-oct-dec2023.pdf>].

⁹⁷ *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, para. 377ff.

- (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.”

63. As construed in the jurisprudence of the Court itself, the International Criminal Tribunal for the former Yugoslavia (“ICTY”), and the International Criminal Tribunal for Rwanda (“ICTR”), Article II requires the determination of the existence of three elements in order to establish whether the crime of genocide was committed: (i) whether an act of genocide (Article II (a)–(e)) was committed, (ii) against a protected group (iii) with intent to destroy it, in whole or in part, as such.⁹⁸

64. South Africa submitted in its Application that Israel’s organs and agents, as well as other affiliated entities, committed all the acts of genocide (except the one set out in Article II (e)) “with the intent to destroy Palestinians in Gaza, part of a protected group under the Genocide Convention”.⁹⁹ The construction of Article II is likely to be at the heart of the dispute before the Court. Türkiye will accordingly set out its construction of these elements in turn.

1. The *Actus Reus* of Genocide

65. The *actus reus* of the crime of genocide is the physical element that must be established in addition to the mental element (*mens rea*). The *actus reus* element of genocide under the Convention is found in Article II, such as killing members of the group, or causing serious bodily or mental harm to members of the group. In order for the *actus reus* to constitute “genocide” under the Convention, however, it must be accompanied by the specific genocidal intent (*dolus specialis*).

66. In respect of individual criminal responsibility, the ICTY has accepted that the commission of even a single act of genocide accompanied by the required genocidal intent is sufficient for the crime to have occurred.¹⁰⁰ The ICTR has furthermore observed that the crime of

⁹⁸ See, in general, *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. 121, para. 187; ICTR, *Prosecutor v. Jean-Paul Akayesu*, Judgment of 2 September 1998, Case No. ICTR-96-4-T, paras. 494 *et seq.*

⁹⁹ Application, para. 117.

¹⁰⁰ ICTY, *Prosecutor v. Goran Jelusic*, Judgment of 14 December 1999, Case No. IT-95-10-T, para. 100.

genocide does not necessarily imply a requirement of the actual partial or total destruction of a group.¹⁰¹ That means, a contextual element is not a formal part of the definition of the crime.

67. That being said, the contextual setting in which the acts of genocide occur is significant for at least three reasons.
68. First, the contextual settings are rather instructive in the practice of inferring genocidal intent in situations where no direct evidence is obtained regarding the genocidal intent of the perpetrators.
69. Second, it should be noted that in modern legal systems punishment is mostly reserved not for mere wishes or “impossible attempts”, but for acts that can potentially and realistically cause damage to the specific value protected by the law. And, as is clearly established by Resolution 96(1) of the UN General Assembly,¹⁰² the law against genocide aims to protect “the rights of existence of entire human groups”. Thus, barring the exceptional circumstances in which the perpetrator on his or her own possesses the means to bring about the desired destruction, the formation of “genocidal intent” becomes possible in very particular circumstances (e.g. as a part of a plan or in the context of a manifest pattern of similar conduct directed against that group).
70. Thus, the plurality of acts of genocide and/or their systematic or planned nature not only can be referred to as “inferring” genocidal intent, but also necessary, at least in most circumstances, for the formation of genocidal intent by individual perpetrators. This observation is particularly important with regard to Article II (a) of the Convention in the context of the present case, given that the manner (e.g. indiscriminate attacks, using weapons that harm the members of the group *en masse*) and context (e.g. as an extension of long-standing occupation or in conjunction with an apartheid policy) in which killings take place will inform the assessment about genocidal intent.

¹⁰¹ ICTR, *Prosecutor v. Jean-Paul Akayesu*, Judgment of 2 September 1998, Case No. ICTR-96-4-T, para. 497; ICTY, *Prosecutor v. Radislav Krstić*, Trial Chamber, Judgment of 19 April 2004, Case No. IT-98-33-A, para. 32.

¹⁰² UN General Assembly Resolution 96 (11 December 1946), UN Doc. A/RES/96(1).

71. Third, context plays an indispensable role in determining state responsibility, i.e. in attributing acts or omissions to a state. Indeed, while a state may successfully argue against its responsibility based on the act of a single individual, it would be much more difficult to evade responsibility if the acts of genocide were carried out in the apparatus of the state hierarchy and a systematic manner.
72. Having made these observations, Türkiye would like to draw the Court’s attention to the systematic and widespread nature of the acts of Israel. The widespread nature is demonstrated with the 24-hour notice to evacuate over 1 million people in North Gaza. The UN Secretary General described the evacuation order as a demand for a “mass evacuation” observing that “any demand for a mass evacuation on extremely short notice could have devastating humanitarian consequences. The evacuation order applies to approximately 1.1 million people. He added that the territory was “already besieged, under aerial bombardment and without fuel, electricity, water and food. It applies to a territory that has suffered critical damage to roads and infrastructure in the past week, making the act of evacuating nearly impossible in the first place. It applies to United Nations staff members and more than 200,000 people sheltering in UN facilities, including schools, health centres and clinics. It applies to hundreds of thousands of children: nearly half of Gaza is under the age of 18.”¹⁰³ Türkiye further observes that on 23 December 2023, the WHO reported that “[a]n unprecedented 93% of the population in Gaza is facing crisis levels of hunger, with insufficient food and high levels of malnutrition.”¹⁰⁴
73. The systematic nature of the attacks are evinced with the following facts: with the exception of the agreed to pause between 24 and 30 November 2023, Israel continued its military attacks against civilians and major infrastructure, including hospitals, notwithstanding the admonitions of UN Security Council resolution 2712 (2023) calling for an “urgent and extended humanitarian pauses and corridors throughout the Gaza Strip”; UN Security Council resolution 2720 (2023) expressing its “*deep concern* at the dire and rapidly deteriorating humanitarian situation in the Gaza Strip and its grave impact on the civilian

¹⁰³ United Nations, Statement by the Secretary General, 13 October 2023, [<https://www.un.org/sg/en/content/sg/articles/2023-10-13/why-israel-must-reconsider-its-gaza-evacuation-order>].

¹⁰⁴ WHO oPt Emergency Situation Update, Issue 18, As of 23 December 2023, [https://www.emro.who.int/images/stories/Sitrep_-_issue_18b.pdf?ua=1].

population, underlining the urgent need for full, rapid, safe, and unhindered humanitarian access into and throughout the entire Gaza Strip”;¹⁰⁵ General Assembly resolution ES-10/22 expressing its “grave concern over the catastrophic humanitarian situation in the Gaza Strip and the suffering of the Palestinian civilian population” and emphasizing that “the Palestinian and Israeli civilian populations must be protected in accordance with international humanitarian law”;¹⁰⁶ and the three orders for provisional measures dated respectively 26 January 2023, 28 March 2024, and 24 May 2024. According to Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, dated 27 May 2024, “by May 2024, the fatalities in the Gaza Strip were estimated to have exceeded 34,800 of them, 24,682, including 7,356 children and 5,419 women, were identified as of 30 April. The number of injured was estimated at 77,908. Disaggregated data were only available for 53,019 (including 12,332 children and 13,996 women). These numbers are likely higher with thousands of persons still missing, many of them now dead under the rubble. Air and artillery strikes account for the majority of casualties since 7 October.”¹⁰⁷

74. Article II (b) of the Convention includes, under certain circumstances, causing serious bodily or mental harm to the members of the group as an act of genocide. Bodily harm can, according to the ICTR in *Kayishema and Ruzindana*, occur in three different forms: as an injury to a person’s health in a manner that seriously impairs that person’s overall physical conditions; as disfigurement, e.g. harming the appearance of a person; or as causing injury to one’s internal or external organs or senses.¹⁰⁸ Further decisions by the ICTR and ICTY have expanded this list, by including *inter alia* serious physical suffering and pain, “acts of torture, inhumane or degrading treatment, sexual violence including rape, interrogations combined with beatings, threats of death, and harm that damages health or causes disfigurement or injury”.¹⁰⁹ An example Türkiye would like to submit for the Court’s

¹⁰⁵ UN Security Council Resolution 2720 (2023), 22 December 2023, S/RES/2720 (2023), p. 1.

¹⁰⁶ UN General Assembly Resolution adopted on 12 December 2023, A/RES/ES-10/22, Chapeau, p. 1.

¹⁰⁷ Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel — Advance unedited version (A/HRC/56/26), 27 May 2024.

¹⁰⁸ ICTY, *Prosecutor v. Radislav Krstić*, Trial Chamber, Judgment of 2 August 2001, Case No. IT-98-33-T, para. 513; ICTY, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Trial Chamber, Judgment of 17 January 2005, Case No. IT-02-60-T, para. 645; ICTY, *Prosecutor v. Zdravko Tolimir*, Trial Chamber, Judgment of 12 December 2012, Case No. IT-05-88/2-T, para. 738.

¹⁰⁹ ICTY, *Prosecutor v. Milomir Stakić*, Trial Chamber, Judgment of 31 July 2003, Case No. IT-97-24-T, para. 516.

consideration is the targeting of operational health systems in a systematic and deliberate manner as relevant to the determination of specific intent under the Convention.

75. According to the ICTY and ICTR, “mental harm” is understood to be psychological damage with persistent and prolonged effects on an individual that cause “disadvantage to a person’s ability to lead a normal and constructive life”,¹¹⁰ as opposed to “emotional or psychological damage or attacks on the dignity of the human person not causing lasting impairment”.¹¹¹
76. Article II (c) of the Convention provides that deliberately inflicting conditions of life calculated to bring about physical destruction constitutes an act of genocide. In order for the crime of genocide to be committed through acts of such a nature — sometimes referred to as “measures of slow death” — the acts must go beyond a form of systematic ill-treatment which causes collateral casualties. Rather, the perpetrators should deliberately impose conditions on the members of the group with the knowledge that the physical destruction of the group is a natural consequence of the continuation of these acts, with an intent to bring about such destruction.
77. The Court elaborated on the scope of the Article II (c) in *the Bosnian Genocide Case*. While the Court under those particular facts and circumstances did not reach the conclusion that the acts of encirclement, shelling and starvation were committed with genocidal intent, it reserved the possibility that acts of encirclement, shelling, and starvation could fall within the scope of the Article II (c).¹¹² Encirclement, shelling, and starvation could, in Türkiye’s view, as seen in the present case, fall within the ambit of Article II (c).
78. Considering the present situation, it is worth recalling that in *the Bosnian Genocide Case* the Applicant had alleged a violation of Article II (c) of the Convention on the basis of the “encirclement, shelling and starvation” of the protected Bosnian population by Serbian

¹¹⁰ ICTY, *Prosecutor v. Radislav Krstić*, Trial Chamber, Judgment of 2 August 2001, Case No. IT-98-33-T, para. 513; ICTY, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Trial Chamber, Judgment of 17 January 2005, Case No. IT-02-60-T, para. 645; see also ICTR, *Prosecutor v. Laurent Semanza*, Trial Chamber, Judgment of 15 May 2003, Case No. ICTR-97-20-T, paras. 321–322; ICTR, *Prosecutor v. Ntagerura et al.*, Trial Chamber, Judgment of 25 February 2004, Case No. ICTR-99-46-T, para. 664.

¹¹¹ ICTY, *Prosecutor v. Radislav Krstić*, Trial Chamber, Judgment of 2 August 2001, Case No. IT-98-33-T, para. 510.

¹¹² *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. 177, para. 324.

forces, alleging that “that UNHCR food and fuel convoys had been ‘obstructed or attacked by Bosnian Serb and Bosnian Croat forces and sometimes also by governmental forces’” and that, as per the report by the Commission of Experts, “blockade of humanitarian aid ha[d] been used as an important tool in the siege”.¹¹³ In that case, the Court reserved the possibility that such acts could constitute genocide under Article II (c), yet it ultimately found that it had not been conclusively established that the acts were committed with the specific intent (*dolus specialis*) to destroy the protected group in whole or in part.¹¹⁴ In its analysis the Court took into account the decision in *Galic*, in which the Tribunal did not find the numerous attacks on civilians “[...] were not consistently so intense as to suggest an attempt by the SRK to wipe out or even deplete the civilian population through attrition [...] the only reasonable conclusion in light of the evidence in the Trial Record is that the primary purpose of the campaign was to instil in the civilian population a state of extreme fear”.¹¹⁵

79. Türkiye is of the view that unlike *Galic* the current case provides the Court with a different set of facts of “encirclement, shelling, and starvation” which support the necessary threshold to establish the *dolus specialis*. Türkiye offers the following facts for Court’s consideration in the construction of the duty to prevent genocide under Article 1.
80. The Israeli government repeatedly engaged in military attacks in the Gaza Strip, which has disproportionately killed women and children, despite numerous admonitions from the UN General Assembly and the UN Security Council all of which underscored the catastrophic situation in the Gaza Strip. The encirclement began when the Israeli military ordered about 1.1 million people at midnight in the northern part of the Gaza Strip to evacuate southwards within 24 hours, ahead of military operations. According to the WHO, this came “at a time when the ongoing air, sea and land strikes on Gaza continue, demolishing densely populated areas—including homes, schools, medical facilities, and other public health infrastructure—rapidly increasing the number of casualties and fatalities, and acutely displacing huge

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*, p. 179, para. 328.

¹¹⁵ ICTY, *Prosecutor v. Stanislav Galić*, Trial Chamber, Judgment of 5 December 2003, Case No. IT-98-29-T, para. 593.

numbers of people.” According to the WHO “Israel has declared a state of war, and a large-scale military operation is ongoing in Gaza.”¹¹⁶

81. Within a period of only nine months of a planned, systematic military operation of intensive bombardment of large areas of populated areas, that has included blockading the delivery of essential humanitarian assistance, in particular food and medical supplies has resulted a constant increase from 2,670 fatalities at the start of the Israeli military attack on 13 October¹¹⁷ to nearly 40,000.¹¹⁸
82. Israel continued to prevent the passage of humanitarian aid to the Gaza Strip despite multiple UN resolutions adopted, notably Security Council resolution 2712 (2023) — calling on all parties to refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance indispensable to their survival¹¹⁹ and Security Council resolution 2720 (2023) — expressing its “*deep concern* at the dire and rapidly deteriorating humanitarian situation in the Gaza Strip and its grave impact on the civilian population, underlining the urgent need for full, rapid, safe, and unhindered humanitarian access into and throughout the entire Gaza Strip”.¹²⁰
83. The Court, in issuing the provisional order dated 28 March 2024, took into account the UNICEF report of 15 March 2024, that 31 per cent of children under 2 years of age in the northern Gaza Strip suffered from acute malnutrition [...], and warned that “[m]alnutrition among children is spreading fast and reaching devastating and unprecedented levels in the Gaza Strip due to the wide-reaching impacts of the war and ongoing restrictions on aid delivery.”¹²¹
84. As a result of the intentional prevention of the delivery of humanitarian assistance to the civilian population of Gaza, according to the UN Second Famine Review issued in March

¹¹⁶ WHO oPt Emergency Situation Update, Issue 4, 15 October 2023, [www.emro.who.int/images/stories/palestine/oPt-emergency-situation-report-issue_4.pdf?ua=1].

¹¹⁷ *Ibid.*

¹¹⁸ WHO oPt Emergency Situation Update, Issue 38, 7 October 2023-29 July 2024, [https://www.emro.who.int/images/stories/Sitrep_-_issue_38.pdf?ua=1].

¹¹⁹ UN Security Council Resolution 2712 (2023), 15 November 2023, S/RES/2712 (2023), p. 2.

¹²⁰ UN Security Council Resolution 2720 (2023), 22 December 2023, S/RES/2720 (2023), p. 1 (emphasis in original).

¹²¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 28 March 2024, para. 20.

2024, “famine is now projected and imminent in the North Gaza and Gaza Governorates.” Specifically, North Gaza and Gaza, were classified as IPC Phase 4 (Emergency), with 55% of households experiencing Catastrophe (IPC Phase 5) and 45% experiencing Emergency (IPC Phase 4) levels of acute food insecurity.¹²² The WHO also reported that, as of May 2024, 31 patients reportedly died of malnutrition and 71 patients were admitted for severe malnutrition in the Gaza Strip.¹²³

85. As is construed by the ICTR in its jurisprudence, acts of this nature may also include, *inter alia*, deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes and the reduction of essential medical services below a minimum requirement, as well as “reducing required medical services below a minimum, and withholding sufficient living accommodation for a reasonable period”.¹²⁴
86. Against this jurisprudential background, the Republic of Türkiye is of the view that the Court should consider closely examining whether the intentional and continued acts of the State of Israel since the first Order of the Court of 26 January 2024, to block humanitarian aid to the Gaza Strip, which according to the WHO have resulted in reported deaths from starvation; the destruction of hospitals and constant attacks against medical care, which has been described by the WHO as the “dismantling of the health care system”, coupled with the final attack on Rafah, the “last refuge” for over 1 million Palestinians displaced by the conflict, meet the requirements of Article II (c).

2. Protected Groups

87. The determination of the protected status of a group constitutes another important element of the crime of genocide given that, for the crime to occur, the abovementioned acts should be directed against a protected (ethnic, religious, racial, or national) group as such.

¹²² Famine Review Committee: Gaza Strip, March 2024, Conclusions and Recommendations, [https://www.un.org/unispal/wp-content/uploads/2024/03/IPC_Famine_Committee_Review_Report_Gaza_Strip_Acute_Food_Insecurity_Feb_July2024_Special_Brief.pdf].

¹²³ WHO oPt Emergency Situation Update, Issue 32, 7 October 2023-30 May 2024, [https://www.emro.who.int/images/stories/Sitrep_-_issue_32c.pdf?ua=1].

¹²⁴ ICTR, *Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgment of 21 May 1999, Case No. ICTR-95-1-T, para. 116.

88. The Court, in its *Bosnian Genocide* case confirmed that “it is a group which must have particular positive characteristics — national, ethnical, racial or religious — and not the lack of them.”¹²⁵
89. In this context, Türkiye notes the assessment of the Court contained in its order of 26 January 2024, which confirms the protected group status of the Palestinians as such.

3. The *Mens Rea* of Genocide

90. As defined by Article II of the Genocide Convention, genocide is a specific intent crime, which distinguishes it from the other crime categories, most prominently from crimes against humanity. The crime of genocide involves two separate mental elements, namely the basic *mens rea* attached to the listed acts, and the specific intent (genocidal intent), which constitutes an ulterior goal or surplus intent attached to the act and is defined as “the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such.”
91. In Türkiye’s view, properly construed, the term “intent”, when referring to genocidal intent, encompasses both volitional and cognitive elements. Specifically, genocidal intent necessitates that the perpetrator's objective is the destruction of the group, either in whole or in part, and the perpetrator should also be aware that her “acts would destroy, in whole or in part, the group as such.”¹²⁶
92. As to the term “to destroy”, the ICTY in *Krstić*,¹²⁷ and this Court in *the Bosnian Genocide Case*,¹²⁸ confined genocidal intent exclusively to the intended physical or biological destruction of group members. Similarly, the Court noted in *Croatia v. Serbia*,

“the *travaux préparatoires* of the Convention show that the drafters originally envisaged two types of genocide, physical or biological genocide, and cultural genocide, but that

¹²⁵ *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*, pp. 124–125, para. 193.

¹²⁶ Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Pursuant to Security Council Resolution 1564 of 18 September 2004, 25 January 2005, para. 491.

¹²⁷ ICTY, *Prosecutor v. Radislav Krstić*, Trial Chamber, Judgment of 2 August 2001, Case No. IT-98-33-T, para. 557, 580.

¹²⁸ *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*, pp. 185–186, para. 344.

this latter concept was eventually dropped in this context. It was accordingly decided to limit the scope of the Convention to the physical or biological destruction of the group.”¹²⁹

93. In the construction to be made in the context of the present case, it is important to note that proving the intended physical or biological destruction manifests itself in various ways, such as the demonizing and dehumanizing language used by the perpetrators (e.g. “cockroaches”, “human animals”);¹³⁰ the complete destruction of homes and facilities of the targeted group while leaving its members no room for continuing their existence even elsewhere; indiscriminate shelling; and so on. When assessing the *dolus specialis* in this case, the Court may find it useful to refer to statements and declarations made by Prime Minister Benjamin Netanyahu in particular, statements that aim to dehumanize the Palestinian population by referring to them as “Amalek” and “monsters”.¹³¹
94. In construing the term “in whole or in part”, international courts and tribunals have in effect read the term as in whole or in substantial part,¹³² which means that, for the crime of genocide to have occurred, the perpetrators must have targeted at least a substantial part of a protected group.
95. As the Court has recognized, the numerical magnitude of the number of targeted victims constitutes an essential starting point for assessing “substantiality”.¹³³ The Court has further noted that, “in evaluating whether the allegedly targeted part of a protected group is substantial in relation to the overall group, the Court will take into account the quantitative

¹²⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, *I.C.J. Reports 2015*, p. 63, para. 136.

¹³⁰ *Prosecutor v. Jean-Paul Akayesu*, Judgment of 2 September 1998, Case No. ICTR-96-4-T, paras. 145–148. See also verbatim record, Friday 11 January 2024, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, CR 2024/1, p. 34, para. 14.

¹³¹ Prime Minister’s tweet in Hebrew, 3 November 2023, [https://twitter.com/IsraeliPM_heb/status/1720406463972004198]; Israel Prime Minister’s Office, PM “Netanyahu asks Ministers to Rise for a Moment of Silence”, 15 October 2023, [<https://www.gov.il/en/pages/spoke-start151023>].

¹³² ICTY, *Prosecutor v. Radislav Krstić*, Appeals Chamber, Judgment of 19 April 2004, Case No. IT-98-33-A, paras. 8–14; *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. 126, para. 198.

¹³³ *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. 126–127, paras. 198–200; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, *I.C.J. Reports 2015*, p. 65, para. 142.

element as well as evidence regarding the geographic location and prominence of the allegedly targeted part of the group.”¹³⁴

96. In light of this construction of the term, the Court may, in its consideration of substantiality, prefer to take into consideration the geopolitical significance of the location, the size of the population effected from the alleged violations of the provisions of the Convention, as well as the relative size of the population in relation to the population as a whole. Hence, in the context of the present case, the Court may consider taking into account the unique geographical and political significance of the Gaza Strip and, alongside its size, the relative size of the Palestinian population in the strip in relation to the whole of the population.

97. As already indicated, Türkiye recognizes that it is well established that Article II is to be interpreted to the effect that genocidal intent requires the perpetrator to target the group “as such”, which denotes that “‘destroying’ has to be directed at the group, *as such*, that is, *qua group*”.¹³⁵

98. In establishing their interpretation of the term “as such”, the Court, the ICTY, and the ICTR have frequently cited¹³⁶ or paraphrased the following understanding proposed by the International Law Commission

“the intention must be to destroy the group ‘as such’, meaning as a separate and distinct entity, and not merely some individuals because of their membership in a particular group. In this regard, the General Assembly distinguished between the crimes of genocide and homicide in describing genocide as the ‘denial of the right of existence of entire human groups’ and homicide as the ‘denial of the right to live of individual human beings’ in its resolution 96 (I)”.¹³⁷

¹³⁴ *Application of the Convention on the Prevention and Punishment of the Crimes of Genocide (Croatia v. Serbia)*, Judgment, *I.C.J. Reports 2015*, p. 65, para. 142; see also *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. 126, paras. 198–199.

¹³⁵ ICTR, *Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgment of 21 May 1999, Case No. ICTR-95-1-T, para. 99.

¹³⁶ ICTY, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Judgment of 17 January 2005, Case No. IT-02-60-T, para. 669; ICTY, *Prosecutor v. Momcilo Krajišnik*, Judgment of 27 September 2006, Case No. IT-00-39-T, para. 856; ICTR, *Prosecutor v. Jean-Paul Akayesu*, Judgment of 2 September 1998, Case No. ICTR-96-4-T, para. 521; *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. 121, para. 187; Draft Code of Crimes Against the Peace and Security of Mankind, Report of the International Law Commission on the work of its forty-eighth session (6 May–26 July 1996), UN Doc. A/51/10, p. 45, para. 7.

¹³⁷ Draft Code of Crimes Against the Peace and Security of Mankind, Report of the International Law Commission on the work of its forty-eighth session (6 May–26 July 1996), UN Doc. A/51/10, p. 45, para. 7.

99. Proving genocidal intent is one of the main challenges before the international court and tribunals. Alongside direct evidence, it is now well-established in the jurisprudence of international courts and tribunals that genocidal intent may be established through indirect evidence.¹³⁸

100. The ICTY, ICTR and ICJ have considered a variety of contextual circumstances and elements, such as the scale and systematicity of attacks, in considering the deduction of genocidal intent. In *Akayesu*, the Trial Chamber of the ICTR noted that

“it is possible to deduce the genocidal intent inherent in a particular act charged from the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others. Other factors, such as the scale of atrocities committed, their general nature, in a region or a country, or furthermore, the fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups, can enable the Chamber to infer the genocidal intent”.¹³⁹

101. In light of the established jurisprudence, Türkiye would like to underline that all available direct and indirect evidence should be examined in a holistic manner in construing and applying Article II and thus in determining whether the officials or organs of a State act with genocidal intent.

102. In its first provisional order of 26 January 2024 the Court had concluded that “the facts and circumstances are sufficient to conclude that at least some of the rights claimed by South Africa and for which it is seeking protection are plausible. This is the case with respect to the right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts identified in Article III [...]”. In light of continuing military attacks by Israel and its prevention of humanitarian aid access to Gaza and at the request of South Africa, the Court on 28 March and 24 May 2024 reaffirmed its previous provisional measure order and indicated additional provisional measures. Türkiye believes that in assessing genocidal intent

¹³⁸ ICTY, *Prosecutor v. Zdravko Tolimir*, Trial Chamber, Judgment of 12 December 2012, Case No. IT-05-88/2-T, paras. 34 and 745.

¹³⁹ ICTR, *Prosecutor v. Jean-Paul Akayesu*, Judgement of 2 September 1998, Case No. ICTR-96-4-T, para. 523.

under the Convention, the Court should take into account continued military attacks against civilian and the prevention of necessary humanitarian assistance.

103. Türkiye would also like to draw the Court’s attention to the close relationship between the discriminatory intent underlying apartheid, which has been committed by Israel against Palestinians in the Occupied Territories as is established in the *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory* Advisory Opinion,¹⁴⁰ and the *mens rea* of genocide.

104. The distinction between the crimes of apartheid and genocide lies in the question of intent. While apartheid requires the maintenance of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups, genocide entails the intent to physically or biologically destroy the protected group in question, as such. That said, apartheid and genocide are not mutually exclusive, that is the crime of genocide, conspiracy to commit genocide and incitement to genocide may all occur in the backdrop of an apartheid regime.

105. Therefore, applying these observations to the case at hand, the Court should determine whether the long-standing apartheid practices established in *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory* are presently accompanied by acts of genocide committed with the intent to exterminate in the Gaza Strip after October 2023.

C. Construction of Article III of the Genocide Convention

106. Article III of the Convention reads as follows,

“The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;

¹⁴⁰ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem, Advisory Opinion*, 19 July 2024, paras. 223–229; see also Declaration of President Salam, paras. 14–32.

- (d) Attempt to commit genocide;
- (e) Complicity in genocide.”

107. The Convention lists four other modes of conduct (mentioned as “other acts” in the rest of the Convention). Three of these conducts, namely conspiracy, direct and public incitement, and attempt, are inchoate crimes, i.e. they create standalone responsibility that can occur prior to genocide in the sense of Article III(a). This fact is in line with the preventative purpose of the Convention, given that the State Parties are under the obligation to prosecute and prevent these “preliminary acts” of genocide. The other conduct, namely complicity, on the other hand, is a form of accessory liability, which requires successfully inducing or assisting in the commission of genocide.

108. As construed and noted by the Court, if certain acts are attributable to a State party,

“it would be unnecessary to determine whether it may also have incurred responsibility under Article III, paragraphs (b) to (e), of the Convention for the same acts. Even though it is theoretically possible for the same acts to result in the attribution to a State of acts of genocide (contemplated by Art. III, para. (a)), conspiracy to commit genocide (Art. III, para. (b)), and direct and public incitement to commit genocide (Art. III, para. (c)), there would be little point, where the requirements for attribution are fulfilled under (a), in making a judicial finding that they are also satisfied under (b) and (c), since responsibility under (a) absorbs that under the other two. The idea of holding the same State responsible by attributing to it acts of “genocide” (Art. III, para. (a)), “attempt to commit genocide” (Art. III, para. (d)), and “complicity in genocide” (Art. III, para. (e)), in relation to the same actions, must be rejected as untenable both logically and legally.”¹⁴¹

109. In order for State responsibility to arise under Article III (a), the existence of the abovementioned elements of the crime must be established in relation to the individual perpetrators and their conduct must be attributable to the State concerned under international law. The crime of genocide may consist of large-scale campaigns and entail vertical modes of criminal attribution, which could proceed from the bottom of the hierarchy and proceed upwards.

¹⁴¹ *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. 200, para. 380.

110. Conspiracy to commit genocide is consistently defined by international courts and tribunals as “an agreement between two or more persons to commit the crime of genocide”.¹⁴² As regards *actus reus*, “conspiracy” requires a completed agreement to commit genocide, while as regards *mens rea* all parties (two or more persons) must hold a “genocidal intent” and an intent knowingly to enter into an agreement.
111. While direct evidence such as documents, statements, or correspondence can prove conspiracy, where direct evidence is lacking, circumstantial evidence may as noted by the ICTR be deemed sufficient as long as the only possible inference from that evidence is “conspiracy to commit genocide”.¹⁴³ Türkiye would like to once again draw attention to the established jurisprudence, according to which all available evidence should be examined in a holistic manner, rather than a piece-meal approach, in construing and applying the relevant norms.
112. For its part, Article III (c) includes direct and public incitement to commit genocide as a punishable offence under the Convention. While the offence can be committed only with the requisite “genocidal intent” and a clear goal of inciting an indeterminate plurality of individuals to commit genocide, the material element (*actus reus*) of this offence involves three important dimensions that must be properly construed.
113. First, “incitement”, which can occur either implicitly or explicitly, is the pivotal term. It should be interpreted as a call to commit genocide, which may influence a potential perpetrator by encouraging and motivating him or her to carry out the crime. Nevertheless, as the ICTR has noted, “direct and public incitement to commit such a crime must be punished as such, even where such incitement failed to produce the result expected by the perpetrator.”¹⁴⁴
114. Second, incitement must be “direct”. This is understood to mean that it should not be left to the recipient to determine whether a group should be destroyed through the methods

¹⁴² See e.g. *Prosecutor v. Ntagerura et al.*, Trial Chamber, Judgment of 7 July 2006, Case No. ICTR-99-46-A, para. 92.

¹⁴³ ICTR, *Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze*, Judgment of 28 November 2007, Case No. ICTR-99-52-A, para. 907.

¹⁴⁴ ICTR, *Prosecutor v. Jean-Paul Akayesu*, Judgment of 2 September 1998, Case No. ICTR-96-4-T, para. 562.

outlined in Article II (a)–(e).¹⁴⁵ This aspect separates incitement from hate speech. The term also denotes that the incitement should not be made in an ambiguous manner that leaves the expression open to be interpreted differently and that the incitement should call for immediate action.

115. Third, the term “public” should be construed as necessitating that the inciting expression be addressed to, or made in the presence of, an indefinite plurality of individuals, rather than being directed towards specific, identifiable persons. As the ICTR has observed,

“[i]ncitement is public when conducted through speeches, shouting or threats uttered in public places or at public gatherings, or through the sale or dissemination, offer for sale or display of written material or printed matter in public places or at public gatherings, or through the public display of placards or posters, or through any other means of audiovisual communication.”¹⁴⁶

D. Construction of Articles IV to VI of the Genocide Convention: Punishment of the Crime of Genocide

116. South Africa contends that Israel, through its acts and omissions, is responsible not only for failing to prevent and for committing genocide in violation of Articles I and III, but also for failing to punish genocide in violation of Articles IV–VI of the Convention. Israel’s international responsibility therefore arises also for failing to punish persons committing genocide in violation of Article IV, “to enact the necessary legislation to give effect to the provisions of the Genocide Convention and to provide effective penalties for persons guilty of genocide, conspiracy to commit genocide, incitement to genocide, attempted genocide, and complicity in genocide in violation of Article V”; and “to allow and/or directly or indirectly impeding the investigation by competent international bodies or fact-finding missions of genocidal acts committed against Palestinians in Gaza, including those Palestinians removed by Israeli State agents or forces to Israel, as a necessary and corollary obligation pursuant to Article VI.”¹⁴⁷

117. As Article IV (which imposes the duty to punish persons who commit genocide), Article V (which requires State parties to adopt appropriate legislation within their domestic criminal

¹⁴⁵ ICTR, *Prosecutor v. Nzabonimana*, Judgment of 31 May 2012, Case No. ICTR-98-44D-T para. 1752.

¹⁴⁶ ICTR, *Prosecutor v. Kalimanzira*, Judgment of 22 June 2009, Case No. ICTR-05-88-T, para. 515.

¹⁴⁷ Application, para. 110 (g)(h)(i).

law), and Article VI (which establishes the jurisdictional bases for such prosecutions) constitute the three components of the obligation to punish genocide, Türkiye will address their construction together.

1. Article IV: Duty to Punish Persons Committing Genocide

118. This Court made it clear, in *Reservations to the Convention on Genocide*, that the duty to punish acts of genocide is binding on all States under general international law.¹⁴⁸ Alongside this obligation, opposable to all States under general international law, Article IV of the Genocide Convention stipulates that

“Persons committing genocide or any of the other acts enumerated in Article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.”

119. In requiring States parties to ensure that persons committing genocide, or any other acts enumerated in Article III, shall be punished, Article IV serves to achieve one of the two main aims — the prevention and the punishment — of the Genocide Convention. Article IV also concretizes the duty to punish imposed by Article I and constitutes an essential and central pillar of the *régime* of the Convention.

120. It is apparent from a combined reading of Articles IV, V, and VI that States parties to the Genocide Convention must investigate and prosecute persons accused of committing genocide, conspiring to commit genocide, directly and publicly inciting genocide, attempting to commit genocide, and who are complicit in genocide, contrary to Articles I, III (a), III (b), III (c), III (d), and III (e) respectively, and punish persons found to be guilty of these crimes within their competent national criminal courts or by cooperating with competent international tribunals. States parties are therefore under the obligation to exercise jurisdiction to prosecute these crimes, to adopt the necessary legal tools for the exercise of that jurisdiction, to investigate allegations of acts of genocide, to bring suspects to justice, and to punish those who are found guilty.

¹⁴⁸ *Reservations to the Convention on Genocide, Advisory Opinion, I.C.J Reports 1951*, p. 23.

121. Persons who commit genocide or any of the acts enumerated in Article III must be punished regardless of their personal status, rank, and official position. Therefore, not only private individuals or low-ranking officials but also high-ranking officials, politicians, and leaders must be prosecuted and, if found guilty, punished.
122. Under Article IV of the Genocide Convention, “official capacity” can never be invoked as a defence for an act of genocide. The inadmissibility of the defence of official position is reaffirmed in the Statutes establishing the ICTY and the ICTR, which declare that the official position of any accused person shall not relieve such person of criminal responsibility nor mitigate punishment.¹⁴⁹
123. The principle according to which the official position cannot shield the perpetrator of the crime of genocide from punishment should be respected regardless of domestic law. It is a well-established general principle of international law that States may not invoke provisions of their internal laws to justify a failure to honour their international obligations.¹⁵⁰ Therefore, immunities provided by domestic legislations for certain State officials accused of committing genocide or any other acts provided by Article III of the Convention cannot be used as a justification for failure to fulfil the duty to punish under Article IV. As a result of the wording of Article IV, which leaves no margin for State appreciation, States parties are precluded from allowing special defences or immunities for perpetrators. The duty to ensure the punishment of perpetrators requires therefore that national rules on immunity be abolished. This obligation arises from Article V, too, according to which States have the duty to enact necessary legislation and duly to implement it in order to give effect to the Genocide Convention in its entirety.
124. Article IV, read together with Article VI, constitutes an implied waiver of immunity also at the international level, regardless of whether genocidal acts have been carried out in a personal or official capacity. The immunity exception for core international crimes has long been applied in international criminal proceedings.

¹⁴⁹ Statute of the ICTY, Art. 7(2); Statute of the ICTR, Art. 6(2).

¹⁵⁰ See *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, Advisory Opinion, I.C.J. Reports 1988*, pp. 34–35, para. 57; *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, I.C.J. Reports 2012*, p. 460, para. 113.

125. In the view of Türkiye, direct and public incitement to commit genocide by State officials, politicians and others, like the failure by the State concerned to punish those responsible, fall within the provisions of Article III and IV of the Convention. Lack of effective judicial processes and reluctance on the part of a government to respect its duty to punish persons committing genocide may also be assessed to constitute or provide evidence as to the existence of a genocidal policy.

2. Article V: Obligation to Enact Legislation

126. Article IV of the Genocide Convention should be read alongside Article V, which provides that

“The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III.”

127. As mentioned above, the obligation to enact domestic criminal legislation imposed by Article V is necessarily related to the duty to punish, which is imposed by Article IV. Indeed, one of the essential elements of the duty to punish is the requirement for the State to adopt the requisite legislation to give effect to that duty. These provisions are crucial in ensuring the effective operation of the Convention and the implementation of its objectives. The Court observed in *the Bosnian Genocide Case* that Article V is “plainly” among those of the Convention’s provisions that “impose obligations on States in respect of which they may, in the event of breach, incur responsibility”.¹⁵¹

128. Although the content of the legislation to be adopted is not explicitly stated, Article V requires the States parties to enact legislation in order “to give effect to the provisions of the Convention” and, “in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article III”. All the terms of the Article should therefore be read together.

¹⁵¹ *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. 109, para. 159.

129. It follows that the mere adoption of the obligations contained with Articles II and III is not enough to satisfy Article V. Article V goes beyond an obligation to provide for genocide in domestic criminal law; it obliges States parties to promulgate domestic legislation in conformity with the object and purpose of the Genocide Convention and to provide “effective” penalties, intended and designed to deter the commission of genocide. In order to be effective, these penalties should be “sufficiently rigorous to make punishment effective”.¹⁵² In other words, Article V obliges States to establish stringent legal, procedural, and institutional mechanisms necessary in order effectively to investigate and prosecute persons suspected of genocide or any of the other acts enumerated in Article III, and to punish, by the most severe sanctions available under their domestic law, those who are found guilty.

130. A failure by a State to comply with this Article would also result in its failure to comply with the obligation to prevent genocide under Article I of the Convention.

3. Article VI: Prosecution and Trial

131. Article VI of the Genocide Convention, by stipulating that

“[p]ersons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction”,

relates to the procedural aspects of the duty to punish persons committing genocide, provided for in Article IV of the Convention.

132. According to Article VI, a person being charged with having committed genocide shall be tried by a competent tribunal, which may be national or international.

133. As regards trials before a national tribunal, the wording of Article VI concerns the obligations of “the State in the territory of which the alleged genocide was committed”. The Republic of Türkiye is of the view that Article VI and its term “commit” must be read in

¹⁵² Draft Convention on the Crime of Genocide, UN Doc. E/447, p. 37.

conjunction with Article IV (which provides that perpetrators of genocide shall be punished) and in the light of the Convention's object and purpose (the prevention of genocide and the punishment of the perpetrators of genocide).

VII. Documents in Support of the Declaration

134. The Republic of Türkiye submits the following documents in support of this Declaration:

Annex A — Letter from the Registrar sent on 6 February 2024, pursuant to Article 63, paragraph 1, of the Statute of the Court.

Annex B — United Nations Depository Notification concerning Türkiye's Accession to the Convention on the Prevention and Punishment of the Crime of Genocide.

VIII. Conclusion

135. On the basis of the information set out above, the Republic of Türkiye avails itself of the right conferred upon it by Article 63, paragraph 2, of the Statute to intervene in the proceedings in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*. The Republic of Türkiye is of the opinion that the present Declaration meets the requirements set out in Article 63 of the Statute and Article 82 of the Rules and respectfully requests that the Court declare it admissible.

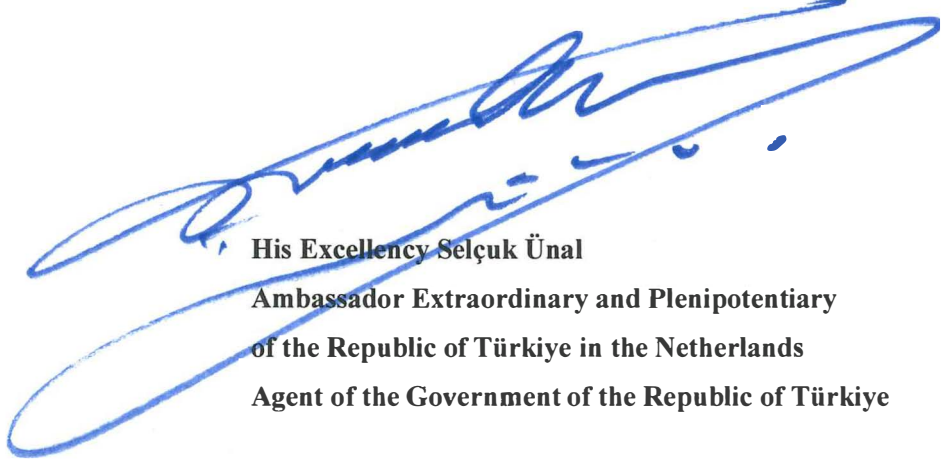
136. Türkiye reserves the right to amend or supplement this Declaration in the course of the written and oral proceedings and, if need be, by filing a further Declaration with the Court.

137. Türkiye takes this opportunity to inform the Court that, in addition to the present declaration to intervene under Article 63, it reserves the right to submit a request to be permitted to intervene under Article 62.

138. The Government of the Republic of Türkiye has appointed the undersigned as its Agent for the purposes of this Declaration and the present proceedings. The Registrar of the Court may channel all communication at the following address:

Embassy of the Republic of Türkiye in The Hague
Jan Evertstraat 15
2514 BS The Hague
The Netherlands

Respectfully,

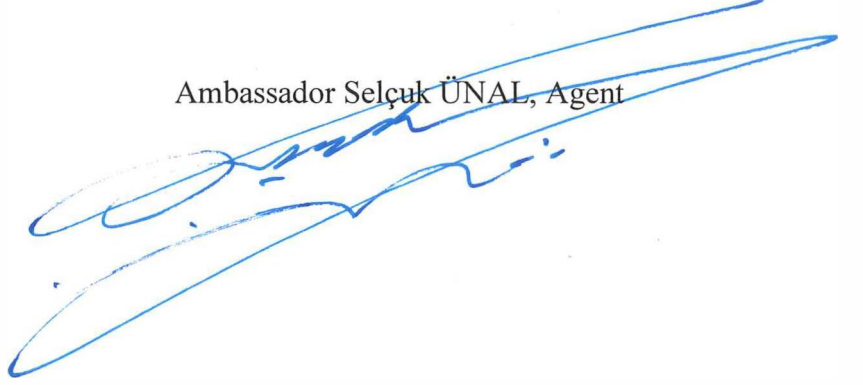


His Excellency Selçuk Ünal
Ambassador Extraordinary and Plenipotentiary
of the Republic of Türkiye in the Netherlands
Agent of the Government of the Republic of Türkiye

CERTIFICATION

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

Ambassador Selçuk ÜNAL, Agent

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned below the printed name.

UNITED NATIONS  NATIONS UNIES

LAKE SUCCESS, NEW YORK

TELEPHONE: FIELDSTONE 7-1100

CABLE ADDRESS: UNATIONS NEWYORK • ADRESSE TELEGRAPHIQUE

C.N.120.1950.TREATIES

8 August 1950

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

ACCESSION BY TURKEY

Sir,

I am directed by the Secretary-General to inform you that on 31 July 1950 the instrument of accession by the Government of Turkey to the Convention on the Prevention and Punishment of the Crime of Genocide, opened for signature at Paris on 9 December 1948, was deposited with the Secretary-General of the United Nations, in accordance with the provisions of Article XI.

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

I have the honour to be,

Sir,

Your obedient Servant,

G. H. Felle

General Counsel and Principal Director
Legal Department



By email only

161308

6 February 2024

Excellency,

I have the honour to refer to my letter (No. 161010) dated 3 January 2024 informing your Government that, on 29 December 2023, South Africa filed in the Registry of the Court an Application instituting proceedings against the State of Israel in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*. 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]henver 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.

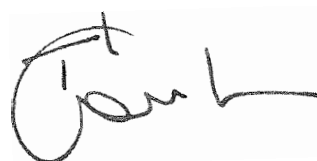
In the above-mentioned Application, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the "Genocide Convention") is invoked both as a basis of the Court's jurisdiction and as a substantive basis of the Applicant's claims on the merits. In particular, the Applicant seeks to found the Court's jurisdiction on the compromissory clause contained in Article IX of the Genocide Convention and alleges violations of Articles I, III, IV, V and VI of the Convention. It therefore appears that the construction of this instrument will be in question in the case.

./.

[Letter to the States parties to the Genocide Convention
(except South Africa and Israel)]

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', written over a light grey rectangular background.

Philippe Gautier
Registrar