

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 GOVERNMENT OF ICELAND**

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

11 MARCH 2026

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DECLARATION OF INTERVENTION

To the Registrar of the International Court of Justice (“the Court”), the undersigned being duly authorised by the Government of Iceland:

1. On behalf of the Government of Iceland, I have the honour to submit to the Court the following Declaration of Intervention, in accordance with Article 63, paragraph 2, of the Statute of the Court (“the Statute”), 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)*.
2. Article 82, paragraph 2, 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 the documents in support, which shall be attached.*
3. These matters are addressed in sequence below, following some preliminary observations.

I. PRELIMINARY OBSERVATIONS

4. On 29 December 2023, the Republic of South Africa (“South Africa”) filed with the Registry of the Court an Application instituting proceedings against the State of Israel (“Israel”) 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)*.

5. In the Application, South Africa alleges violations by Israel of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (“the Convention” or “the Genocide Convention”) and invokes the compromissory clause contained in its Article IX as the basis for the jurisdiction of the Court.
6. Pursuant to Article 63, paragraph 1, of the Statute, the Registrar of the Court notified the Government of Iceland, as a Contracting Party to the Genocide Convention, that it appeared “that the construction of the instrument will be in question in the case”.¹
7. As a Contracting Party, Iceland has interest in the construction of the provisions of the Convention that may be adopted by the Court in the present proceedings. Iceland therefore avails itself of the right to intervene in the case, conferred upon it by Article 63 of the Statute, in order to submit its observations to the Court. Iceland recalls that the Convention protects interests shared by the international community as a whole. The obligations give effect to fundamental values reflected by the Convention, are owed *erga omnes*, and derive from the peremptory norm of the prohibition of genocide.²
8. Iceland observes that the violations of the Convention alleged by South Africa pertain to conduct occurring in the context of Israeli military operations in the Gaza Strip following the attacks carried out in Israel on 7 October 2023 by the terrorist entity of Hamas and other armed groups. Iceland has unequivocally and unconditionally condemned the 7 October 2023 attacks. Iceland has further deplored the catastrophic humanitarian situation wrought on the civilian population of Gaza during the armed conflict that followed and brought about destruction and displacement on a massive scale. A ceasefire entered into force on 10 October 2025 as a first step of a broader peace plan.

¹ Letter from the Registrar of the International Court of Justice to the Ambassador of Iceland to the Kingdom of the Netherlands, dated 6 February 2024, attached at Annex I (“Letter of the Registrar”).

² *Application of the Convention on the Prevention and Punishment of Genocide (The Gambia v. Myanmar)* (Request for the Indication of Provisional Measures, Order) 23 January 2020, para 41; *Case Concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)* (Jurisdiction and Admissibility) [2006] ICJ Rep 6, para 64; ILC, “Report of the International Law Commission, 73rd session” (18 April-3 June and 4 July-5 August 2022) UN Doc A/77/10, Chapter VI (“Peremptory norms of general international law (jus cogens)”).

9. Iceland recognises that the permissible exercise of its right of intervention under Article 63 of the Statute is “confined to the point of interpretation which is in issue in the proceedings, and does not extend to general intervention in the case.”³ Accordingly, Iceland’s submissions to the Court will be limited to the presentation of its views on the construction of the provisions of the Genocide Convention at issue in the case.
10. In accordance with the customary rules of treaty interpretation, reflected in the Vienna Convention on the Law of Treaties,⁴ Iceland will also make reference to other rules and principles of international law outside of the Genocide Convention to the extent that it may be relevant for the construction of its provisions.⁵

II. THE CASE AND THE CONVENTION TO WHICH THIS DECLARATION RELATES

11. The present 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 against Israel on 29 December 2023. The case and this Declaration concern the interpretation of the Genocide Convention.

III. BASIS ON WHICH ICELAND CONSIDERS ITSELF A PARTY TO THE CONVENTION

12. Iceland signed the Genocide Convention on 14 May 1949. Iceland was the fourth State to ratify the Convention by depositing its instrument of ratification with the Secretary-General of the United Nations on 29 August 1949.⁶ Pursuant to paragraph 2 of Article XIII, the Convention entered into force in respect of Iceland on 12 January 1951.
13. Iceland has made no reservation or declaration to the Convention.

³ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* (Application by Malta for Permission to Intervene, Judgment) [1981] ICJ Rep 3, para 26.

⁴ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331.

⁵ See: *The Case of Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)* (Admissibility of the Declarations of Intervention, Order) 25 July 2025, para 60.

⁶ Instrument of ratification by Iceland of the Convention on the Prevention and Punishment of the Crime of Genocide, dated 16 August 1949, attached at Annex II.

IV. PROVISIONS OF THE CONVENTION THE CONSTRUCTION OF WHICH ICELAND CONSIDERS TO BE IN QUESTION

14. In its Application, South Africa claims 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.”⁷ On that basis, South Africa requests the Court to adjudge and declare that Israel “has breached and continues to breach its obligations under the Genocide Convention, in particular the obligations provided under Article I, read in conjunction with Article II, and Articles III (a), III (b), III (c), III (d), III (e), IV, V and VI”.⁸ In addition, South Africa seeks relief, including reparations.⁹
15. In the notification to the Government of Iceland, the Registrar states that South Africa “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.”¹⁰
16. Iceland therefore considers the construction of Articles I, II, III, IV, V, VI and IX to be in question in the case.

V. STATEMENT OF THE CONSTRUCTION OF THOSE PROVISIONS FOR WHICH ICELAND CONTENDS

17. Iceland construes the provisions of the Genocide Convention in accordance with the customary rules of treaty interpretation reflected in Articles 31 and 32 of the Vienna Convention on the Law of Treaties, which require *inter alia* that “[a] treaty shall be

⁷ Application instituting proceedings containing a Request for the indication of provisional measures, filed in the Registry of the Court on 29 December 2023, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, para 110.

⁸ *ibid* para 111(2)(a).

⁹ *ibid* para 111.

¹⁰ Letter of the Registrar (n 1).

interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.”¹¹

18. Iceland understands the object and purpose of the Genocide Convention to be to bring about a protective international legal framework “to safeguard the very existence of certain human groups” through “the prevention and punishment of genocide”.¹² In particular, Iceland emphasises that the Convention does not confine itself to the prohibition of genocide, already affirmed as “a crime under international law” in General Assembly resolution 96 (I),¹³ but sets out to effectuate the international cooperation required “to liberate mankind from such an odious scourge”.¹⁴ To that end, the Convention is endowed with certain “special characteristics”,¹⁵ the most consequential of which is the *erga omnes* nature of the obligations owed by the Contracting Parties.¹⁶
19. In light of these special characteristics of the Convention, Iceland emphasises that its provisions must be interpreted, individually and *inter se*, in a manner that serves the attainment of the express objective of effectuating the prevention and punishment of the crime of genocide, irrespective of where or by whom it is committed. As was stated by the Court in 1951, the “high ideals which inspired the Convention provide, by virtue of the common will of the parties, the foundation and measure of all its provisions”¹⁷. These ideals must accordingly guide its interpretation.

¹¹ Vienna Convention on the Law of Treaties (n 4) art 31; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (Merits Judgment) [2007] ICJ Rep 43 (“*Bosnia v. Serbia*”), para 160.

¹² *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* (Advisory Opinion) [1951] ICJ Rep 15 (“*1951 Advisory Opinion*”), p 23; *Application of the Convention and Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)* (Merits Judgment) [2015] ICJ Rep 3 (“*Croatia v. Serbia*”), para 149.

¹³ UNGA Res 96 (I) (11 December 1947) UN Doc A/RES/96(I) (“Resolution 96 (I)”).

¹⁴ Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277 (“Genocide Convention”), Preamble.

¹⁵ *1951 Advisory Opinion* (n 12), p 23.

¹⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)* (Preliminary Objections, Judgment) [2022] ICJ Rep 477 (“*The Gambia v. Myanmar Preliminary Objections*”), para 107, citing *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* (Judgment) [2012] ICJ Rep 449, para 68; see also: *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)* (Second Phase, Judgment) [1970] ICJ Rep 32, para 33.

¹⁷ *1951 Advisory Opinion* (n 12), p 23.

20. On the basis of this overall approach, Iceland will elaborate how it construes the definition of the crime of genocide under Article II, the obligation to punish under Articles I, IV, V and VI, and the jurisdiction of the Court in respect of State responsibility for genocide under Article IX of the Convention.

A. The Definition of the Crime of Genocide

21. Iceland intervenes on the construction of Article II of the Genocide Convention, which elaborates the definition of the crime of genocide for the purposes of the Convention, and 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;*
- (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.*

22. Since the substantive obligations prescribed by the Convention are set out in reference to the definition in Article II, Iceland respectfully submits that the *effet utile* of the protective system established by the Convention is contingent on how that definition is construed.

i) The Determination of the Dolus Specialis

23. Under Article II, genocide consists of any of the five “acts” set out in paragraphs (a) to (e), each of which includes a material and a mental element, with the specific “intent to destroy” a protected group, in whole or in part. While each of these acts can constitute an internationally wrongful act in their own right, what distinguishes an act as genocide is not the destructive effects of the conduct, but the presence of a specific intent to

destroy the targeted group (the *dolus specialis*).¹⁸ This requirement reflects genocide's defining character as "a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings".¹⁹

24. The Court's jurisprudence under the Convention, as well as that of relevant international criminal tribunals under their respective statutes, underscores the practical and evidential challenges inherent in proving the existence of the *dolus specialis*. Where genocidal intent cannot be established from direct evidence, it is necessary to determine whether the requisite intent can be ascertained by recourse to the relevant facts and circumstances of the material conduct.²⁰ These may include "the general context, the perpetration of other culpable acts systemically directed against the same group, the scale of atrocities, the systematic targeting of victims on account of their membership in a particular group, or the repetition of destructive and discriminatory acts."²¹ In the absence of direct evidence, the Court has required the *dolus specialis* to be "convincingly shown by reference to particular circumstances".²²
25. The Court has stated that intent may be inferred from a "pattern of conduct" targeting a particular group, assessed holistically.²³ Iceland's understanding is that such "pattern of conduct" need not exclusively involve many instances of the same conduct. Rather it may involve a pattern of various acts, including acts that fall within the material elements of Article II (a) to (e).²⁴ Importantly, when inferring the *dolus specialis* from a pattern of conduct, the Court has found it "necessary and sufficient that it is the only inference that could reasonably be drawn from the acts in question."²⁵
26. While the *only reasonable inference* criterion serves to ensure that the *dolus specialis* requirement set out in the Convention's definition of genocide has effective meaning, Iceland respectfully submits that its application should not render a determination of

¹⁸ *Croatia v. Serbia* (n 12), para 139.

¹⁹ Resolution 96 (I) (n 13), Preamble.

²⁰ *Croatia v. Serbia* (n 12), para 143; *Gacumbitsi v. Prosecutor* (Appeals Chamber Judgment) ICTR-2001-64-A (7 July 2006), para 40; *Prosecutor v. Kayishema and Ruzindana* (Appeals Chamber Judgment) ICTR-95-1-A (1 June 2001), paras 139, 159.

²¹ *Prosecutor v. Tolimir* (Trial Chamber Judgment) IT-05-88/2-A (12 December 2012) ("*Prosecutor v. Tolimir* (Trial Chamber)"), para 745; (Appeals Chamber Judgment) IT-05-88/2-A (8 April 2015) ("*Prosecutor v. Tolimir* (Appeals Chamber)"), para 246.

²² *Bosnia v. Serbia* (n 11), para 373.

²³ *Croatia v. Serbia* (n 12), para 148.

²⁴ See n 21 and accompanying text in para 24 of this Declaration.

²⁵ *Croatia v. Serbia* (n 12), para 148.

inferred genocidal intent practically impossible. Such a result would serve to perpetuate impunity and weaken the Convention's protective function. In particular, Iceland considers that the *only reasonable inference* criterion does not require the genocidal intent to represent an exhaustive description of the mental state of the relevant actor. Rather, a finding of genocidal intent is without prejudice to the possibility that other mental factors or reasons for acting may also have been at play.

27. On this point, Iceland recalls the Court's previous finding that "specific intent is [...] to be distinguished from other reasons or motives the perpetrator may have".²⁶ Intent concerns the state of mind with respect to committing an act, whereas motive explains the underlying reasons for acting, whether political, military or otherwise.²⁷ Iceland contends that a *prima facie* legitimate justification advanced in relation to an act, for instance that it pursues a security-related motive, does not conceptually preclude the possibility that genocidal intent may exist or arise in the course of its commission.
28. Iceland further contends that, if the pursuit of a purported legitimising motive were to dispel a determination of inferred genocidal intent, a credible nexus would need to be established between the stated motive and the manner in which it was pursued. For instance, in cases where a party to an armed conflict engages in gross violations of international humanitarian law, such as manifestly intentional violations of the principles of proportionality or of distinction, the absence of any credible nexus between the conduct and the pursuit of a military advantage is consequential for an assessment of genocidal intent under Article II of the Convention. Where systematic, such internationally wrongful conduct carries significant probative weight for determining whether it was carried out with intent to destroy a targeted group.
29. Iceland considers this particularly relevant when assessing, under the Genocide Convention, violations of international humanitarian law targeting or affecting children. Children are essential to the future existence of the protected group to which they belong, they have particular vulnerabilities and are entitled to specific protection.²⁸

²⁶ *Bosnia v. Serbia* (n 11), para 189.

²⁷ *Prosecutor v. Goran Jelišić* (Appeals Chamber Judgment) IT-95-10-A (5 July 2001), para 49.

²⁸ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3; International Committee of the Red Cross, *Customary International Humanitarian Law. Volume I: Rules* (CUP 2005), Rule 135 ("Children affected by armed conflict are entitled to special respect and protection"), also reflected in Protocol Additional to the Geneva Conventions of 12 August

These factors are consequential for assessing acts directed at, or having a disproportionate impact on, children of the protected group in respect of the mental elements of Article II, including the *dolus specialis*, in addition to the material elements.

30. Finally, Iceland contends that the determination of inferred genocidal intent requires a holistic assessment.²⁹ The assessment should take into account the entire pattern and context of conduct over time, including hostilities and discrimination, rather than isolated incidents or time periods viewed in abstraction. Iceland further considers that attributable official or public statements form a part of the overall context. Even when such material is not determinative in isolation, it may serve to corroborate or undermine inferences drawn from the acts in question.

ii) Serious Bodily or Mental Harm under Article II (b) of the Convention

31. Iceland intervenes on the construction of the material element set out in Article II (b) and contends that the assessment of whether conduct comes within its meaning must consider the circumstances of the members of the group targeted. The fulfilment of the material element set out in Article II (b) is a question of result, and Iceland recalls that the Court has noted that “[t]he harm inflicted need not be permanent and irremediable.”³⁰
32. The determination of “serious bodily or mental harm” requires application of the seriousness threshold on a case-by-case basis, taking into account not only the nature of the act but specifically the identity and vulnerabilities of the members of the protected group. Iceland places particular emphasis on children as victims in this context. Actions that may not pass the seriousness threshold when directed at adults,

1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3, Article 77.

²⁹ See: the Court’s assessment in *Bosnia v. Serbia* (n 11), paras 370-373 and *Croatia v. Serbia* (n 12), paras 407-417 and specifically para 419 (stating that the Court would assess “the context” in which the material acts were committed, “in order to determine the aim pursued”); and see: *Prosecutor v. Tolimir* (Trial Chamber) (n 21), para 772 (referring to an assessment of “all of the evidence, taken together”); *Prosecutor v. Tolimir* (Appeals Chamber) (n 21), para 247 (describing a “holistic approach” to the evidence).

³⁰ *Bosnia v. Serbia* (n 11), para 300, citing *Prosecutor v. Stakić* (Trial Chamber Judgment) IT-97-24-T (31 July 2003), para 516.

can nonetheless cause children “grave and long-term disadvantage to [their] ability to lead a normal and constructive life”.³¹

33. Iceland recalls in this regard that, in the context of the Srebrenica genocide, the trauma of survivors was found to come within the meaning of Article II (b), as the mental harm had “long-lasting effects on the respective abilities of the surviving women, children and some elderly men to live normal and constructive lives”.³²

iii) Conditions of Life Calculated to Bring about the Group’s Physical Destruction under Article II (c) of the Convention

34. Iceland intervenes on the construction of the material element set out in Article II (c) and contends that the provision should not be considered in isolation or compartmentalised from other provisions of the Convention. The conditions of life described in Article II (c) should therefore be viewed in the context of other acts, such as killing of members of the protected group and inflicting serious bodily and mental harm on its members, to avoid an interpretation of the Convention where atrocities are placed in different categories, each with its own thresholds of proof and severity, thereby failing to consider genocide as a composite act.³³
35. Article II (c) does not require that the conditions of life inflicted on the protected group lead to immediate deaths.³⁴ The Court has noted that “deprivation of food, medical care, shelter or clothing, as well as lack of hygiene, [and] systematic expulsion from homes” are among the methods of destruction that may constitute acts under Article II (c).³⁵ Iceland considers that the imposition or aggravation of a humanitarian crisis or famine within the protected group would constitute an act under Article II (c). Where acts and omissions, that dismantle a group’s means of survival, are in contravention of decisions

³¹ *Prosecutor v. Tolimir* (Appeals Chamber) (n 21), para 210; See also: Joint Declaration of Intervention of Canada, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland Pursuant to Article 63 of the Statute of the International Court of Justice filed in the Registry of the Court on 15 November 2023, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)* (“Joint Declaration of Intervention of Canada, Denmark, France, Germany, the Netherlands, and the United Kingdom”), para 40.

³² *Prosecutor v. Karadžić* (Trial Chamber Judgment) IT-95-5/18-T (24 March 2016) (“*Prosecutor v. Karadžić* (Trial Chamber)”), para 5664.

³³ ILC, “Report of the International Law Commission, 53rd session” (23 April-1 June and 2 July-10 August 2001) UN Doc A/56/10, p 146-147 (discussing genocide as illustrative of a “composite act” in the commentary on the Draft Articles on Responsibility of States for Internationally Wrongful Acts).

³⁴ *Prosecutor v. Kayishema and Ruzindana* (Trial Chamber Judgment) ICTR-95-I-T (21 May 1999), para 116.

³⁵ *Croatia v. Serbia* (n 12), para 161.

or orders from competent international bodies such as the Security Council or the Court, they are likely to fulfil both the material and mental elements of Article II.

36. Iceland contends that the application of Article II (c) must take account of the pre-existing situation of the protected group. In the context of evaluating the probability of conditions of life leading to the physical destruction of the group, the “actual nature of the conditions of life, the length of time that members of the group were subjected to them, and the characteristics of the group such as its vulnerability” are relevant factors.³⁶ The age and gender composition of the protected group—for example high concentration of children—is relevant for an assessment of its vulnerability.
37. While the forcible transfer or displacement of a group is not in itself determinative of a genocidal act, such actions would engage Article II (c) if carried out “in such circumstances that they were calculated to bring about the physical destruction of the group”.³⁷ For the purposes of assessing the intent behind forced displacement, the Court has distinguished between the destruction of the group and its removal from the region.³⁸ Accordingly, the Court must assess whether the removal of a group is in fact possible, or could reasonably be perceived as possible, without the destruction of that group. In this respect, Iceland contends that the geographical features of the area in question, for example its enclosure, are relevant factors.
38. Iceland further contends that where members of a protected group are displaced in emergency situations, including armed conflict, such displacement would only be considered temporary if return of the members to their homes remains realistically possible. In that light, widespread destruction of residential housing in the area inhabited by the group must be considered materially relevant.
39. Finally, consistent with its interpretation of Article II (b), Iceland contends that the assessment of conduct under Article II (c) must give particular consideration to the

³⁶ *Prosecutor v. Karadžić* (Trial Chamber) (n 32), para 548; See also: Stockholm District Court [Stockholms Tingsrätt], *Case of Lina Ishaq* (Judgment of 11 February 2025) B 3210-23, English translation available at <<https://www.legal-tools.org/doc/ms5rrxc9/>>, p 81 (noting the “continued degrading treatment” during the captivity of persons “in an already vulnerable situation [...] in a situation where their human dignity had already been grossly violated.”); Joint Declaration of Intervention of Canada, Denmark, France, Germany, the Netherlands, and the United Kingdom (n 31), para 42 (“The Declarants submit that, as with Article 11(b) of the Genocide Convention, the conditions of life that will bring about the physical destruction of members of a group will depend on the characteristics of members of the group.”)

³⁷ *Croatia v. Serbia* (n 12), para 163.

³⁸ See also: *Bosnia v. Serbia* (n 11), para 190.

position and vulnerabilities of children. Children require particular care and are vulnerable to impaired conditions of life, including with respect to nutrition and medical care.

40. Furthermore, while women are not inherently vulnerable, they may be placed in circumstances of vulnerability which require particular attention in the application of the Convention. Iceland emphasises the situation of pregnant, postpartum and breastfeeding women, and those trying to conceive, as well as the overall conditions of maternity and reproductive health. In this respect, the application of Article II (c), as well as Article II (b), is without prejudice to the specific scope of Article II (d) addressing measures intended to prevent births within the protected group.

B. The Duty to Punish Genocide

41. Iceland intervenes on the construction of the duty to punish genocide set out in Articles I, IV, V and VI of the Convention, which read as follows:

Article I

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.

Article IV

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.

Article V

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.

Article VI

Persons 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.

42. The above provisions elaborate the duty incumbent upon all Contracting Parties to punish genocide and the other punishable acts set out in Article III. Whereas Articles I, IV and V prescribe the substantive content of the obligations encompassed in the duty to punish genocide, Article VI allocates the responsibility for discharging it by specifying before which tribunal persons are to be tried. While these provisions are legally independent and each produces its own effect, Iceland contends that their construction requires that they are read in light of their collective function to ensure the punishment of genocide. It follows that the specific performance required of a State to act or cooperate under Article VI is informed by the centrality of that provision to the attainment of the Convention's bipartite object of preventing and punishing genocide.
43. Iceland affirms that Article VI imposes upon Contracting Parties the obligation to try persons accused of genocide or other punishable acts alleged to have taken place within their territory.³⁹ Iceland recalls that, where a State has accepted the jurisdiction of an international penal tribunal, Article VI entails the obligation to cooperate with such a tribunal where it has jurisdiction, irrespective of where an act is alleged to have occurred.⁴⁰
44. Insofar as Article VI obligates the Contracting Parties to "institute and exercise territorial criminal jurisdiction",⁴¹ Iceland contends that this obligation does not require the *competent tribunal* to be an organ of a territorial State. For instance, an internationalised or hybrid tribunal upon which the territorial criminal jurisdiction of a State has been conferred can constitute a competent tribunal within the meaning of

³⁹ See also: *Bosnia v. Serbia* (n 11), para 442.

⁴⁰ *ibid* para 443 ("Article VI obliges the Contracting Parties "which shall have accepted its jurisdiction" to co-operate with it, which implies that they will arrest persons accused of genocide who are in their territory — even if the crime of which they are accused was committed outside it — and, failing prosecution of them in the parties' own courts, that they will hand them over for trial by the competent international tribunal").

⁴¹ *ibid* para 442.

Article VI. While not extinguishing the obligations of the territorial State under Article VI, the conferral of criminal jurisdiction upon another State on the basis of an agreement has significance for the interpretation of the duty to prosecute.

45. Furthermore, Iceland contends that the construction of the obligation for Contracting Parties to exercise territorial jurisdiction under Article VI must reflect the possibility that the crime of genocide and the other punishable acts can be committed anywhere, including across borders. In this respect, Iceland recalls that genocide is a composite act encompassing the accumulation of acts committed with the requisite intent, and that any individual responsible for those acts will have committed genocide.⁴² Inherent in its nature as a composite act is the possibility that the commission of the crime of genocide can comprise *inter alia* different acts committed across multiple territories, acts directed from a territory other than where they were perpetrated or acts that entail a transboundary activity. In such cases, the duty to exercise territorial jurisdiction pursuant to Article VI can arise in respect of all the relevant States, thereby requiring the exercise of, as the case may be, subjective or objective territorial criminal jurisdiction.
46. Finally, Iceland contends that the content of the obligations imposed by Article VI is informed by its interplay with the obligations imposed by Articles I, IV and V, as well as the Convention's general objective of ensuring international cooperation to prevent and punish genocide.⁴³ It follows that, in allocating responsibility for punishment, Article VI entails the obligation incumbent upon all Contracting Parties not to impede the carrying out of a prosecution before any tribunal competent under the Convention. In certain cases, a State would also be expected to take measures within its capacity to facilitate that the Convention duty to prosecute is discharged. Such an obligation would encompass actions commensurate with a relevant State's capacity to act, for example

⁴² As is reflected in the commentaries of the International Law Commission to its Draft Articles on Responsibility of States for Internationally Wrongful Acts "any individual responsible for any of [the accumulated acts] with the relevant intent will have committed genocide". ILC, "Report of the International Law Commission, 53rd session" (23 April-1 June and 2 July-10 August 2001) UN Doc A/56/10, Supp No 10, p 147.

⁴³ See: *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)* (Preliminary Objections) [2024] ICJ Rep 360, para 56 (stating that the Contracting Parties must implement their obligation under Article I of the Convention "in good faith, taking into account other parts of the Convention") and *1951 Advisory Opinion* (n 12), p 23 (addressing the objectives and characteristics of the Convention, including the co-operation it requires).

the facilitation of an impartial fact-finding investigation and the preservation of evidence.

C. State Responsibility

47. Iceland intervenes on the construction of the compromissory clause set out in Article IX of the Convention, which reads as follows:

Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

48. Iceland observes that the compromissory clause expressly includes within the remit of the Court's jurisdiction disputes "relating to the responsibility of a State for genocide or for any other acts enumerated in article III". The Court has held that "any State party to the Genocide Convention may invoke the responsibility of another State party, including through the institution of proceedings before the Court, with a view to determining the alleged failure to comply with its obligations *erga omnes partes* under the Convention and to bringing that failure to an end."⁴⁴
49. The responsibility of a Contracting Party for violations of its obligations engages the customary obligation to make full reparation for the injury caused by its wrongful act.⁴⁵ The Court has found it appropriate to address reparation in its jurisprudence under Article IX of the Convention,⁴⁶ in accordance with the Court's view that "where jurisdiction exists over a dispute on a particular matter, no separate basis for jurisdiction is required by the Court to consider the remedies a party has requested for the breach of the obligation".⁴⁷

⁴⁴ *The Gambia v. Myanmar* Preliminary Objections (n 16), para 112.

⁴⁵ See for example: *Factory at Chorzów* (Jurisdiction) [1927] PCIJ Series A No 9, p 21; *Avena and Other Mexican Nationals (Mexico v. United States of America)* (Judgment) [2004] ICJ Rep 59, para 119.

⁴⁶ *Bosnia v. Serbia* (n 11), paras 459-466.

⁴⁷ *LaGrand (Germany v. United States)* (Merits Judgment) [2001] ICJ Rep 466, para 48.

50. On this basis Iceland construes the compromissory clause of Article IX of the Convention as granting the Court jurisdiction over claims by any Contracting Party for cessation, assurances, guarantees of non-repetition, and reparation “in the interest of the injured State or of the beneficiaries of the obligation breached”.⁴⁸

VI. DOCUMENTS IN SUPPORT OF THE PRESENT DECLARATION

51. The following is a list of the documents submitted in support of this Declaration, which documents are attached hereto:
- I. Letter from the Registrar of the International Court of Justice to the Ambassador of Iceland to the Kingdom of the Netherlands, dated 6 February 2024;
 - II. Instrument of ratification by Iceland of the Convention on the Prevention and Punishment of the Crime of Genocide, dated 16 August 1949;
 - III. Extract from volume 78 of the *United Nations Treaty Series*, giving notice of the deposit of the instrument of ratification by Iceland on 29 August 1949.

⁴⁸ ILC, “Draft Articles on Responsibility of States for Internationally Wrongful Acts”, adopted by the Commission at its fifty-third session in 2001, reproduced in the annex to UNGA Res 56/83 (12 December 2001) UN Doc A/RES/56/83, Article 48.

VII. CONCLUSION

52. With reference to the foregoing, Iceland avails itself of the right conferred upon it by Article 63, paragraph 2, of the Statute 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)*.
53. Iceland reserves the right to supplement or amend the present Declaration, and any written statements submitted with respect to it, as it considers necessary in response to subsequent developments in the proceedings.
54. The Government of Iceland has appointed Ms. Sesselja Sigurðardóttir, Director General for Legal and Executive Affairs at the Ministry for Foreign Affairs, as Agent for the purposes of the present Declaration. It is requested that all communications in this case be sent to the Embassy of Iceland to the Kingdom of the Netherlands at the following address:

Embassy of Iceland,
Rue Archimède 17,
1000 Bruxelles,
Belgium.

Respectfully,



Sesselja Sigurðardóttir
Agent of the Government of Iceland

ANNEX I

COUR INTERNATIONALE
DE JUSTICE



INTERNATIONAL COURT
OF JUSTICE

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)]

Palais de la Paix, Carnegieplein 2
2517 KJ La Haye - Pays-Bas
Téléphone: +31 (0) 70 302 23 23 - Facsimilé: +31 (0) 70 364 99 28
Site Internet: www.icj-cij.org

Peace Palace, Carnegieplein 2
2517 KJ The Hague - Netherlands
Telephone: +31 (0) 70 302 23 23 - Telefax: +31 (0) 70 364 99 28
Website: www.icj-cij.org

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.



Philippe Gautier
Registrar

ANNEX II

Forseti Íslands

gjörir kunnugt:

Áð ég hef á séð og athugað alþjóðasamning um ráðstafanir gegn hópmorðum (Convention on the Prevention and Punishment of the Crime of Genocide), sem samþykktur var af allsherjarþingi Sameinuðu Þjóðanna hinn 9. desember 1948 og lýsi ég hér með yfir því, að téður samningur er með skjali þessu samþykktur, staðfestur og fullgiltur, enda skal ákvæðum hans framfylgt í hvívetna.

Þessu til staðfestu hef ég undirritað fullgild-
ingarskjal þetta og látið setja á það innsigli lýðveldisins.

Gjört á *Reykjavík*, 6. ágúst 1949.

Heinn Jónsson

Þjónni Benediktsson

TRANSLATION



THE PRESIDENT OF ICELAND

PROCLAIMS:

That having seen and examined the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on December 9, 1948 and signed on behalf of Iceland on May 14, 1949, I declare that the said Convention is hereby approved, confirmed and ratified and that its provisions shall be inviolably observed.

In faith whereof I have signed this Instrument of Ratification and caused the Seal of the Republic to be affixed thereto.

Done at Reykjavík, August , 1949.

sign. Sveinn Björnsson
President of Iceland

/ sign. Bjarni Benediktsson
Minister for Foreign Affairs

ANNEX III

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United Nations — Treaty Series

1951

No. 1021. CONVENTION¹ ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE. ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 9 DECEMBER 1948

THE CONTRACTING PARTIES,

HAVING CONSIDERED the declaration made by the General Assembly of the United Nations in its resolution 96 (I) dated 11 December 1946² that genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world;

RECOGNIZING that at all periods of history genocide has inflicted great losses on humanity; and

BEING CONVINCED that, in order to liberate mankind from such an odious scourge, international co-operation is required,

HEREBY AGREE AS HEREINAFTER PROVIDED:

¹ Came into force on 12 January 1951, the ninetieth day following the date of deposit of the twentieth instrument of ratification or accession, in accordance with article XIII.

The following States deposited with the Secretary-General of the United Nations their instruments of ratification or accession on the dates indicated:

<i>Ratifications</i>	<i>Accessions</i>
AUSTRALIA 8 July 1949	BULGARIA 21 July 1950
By a notification received on 8 July 1949 the Government of Australia extended the application of the Convention to all territories for the conduct of whose foreign relations Australia is responsible.	CAMBODIA 14 October 1950
² Czechoslovakia 21 December 1950	CEYLON 12 October 1950
ECUADOR 21 December 1949	COSTA RICA 14 October 1950
EL SALVADOR 28 September 1950	JORDAN 3 April 1950
ETHIOPIA 1 July 1949	KOREA 14 October 1950
FRANCE 14 October 1950	LAOS 8 December 1950
GUATEMALA 13 January 1950	MONACO 30 March 1950
HAITI 14 October 1950	POLAND 14 November 1950
ICELAND 29 August 1949	ROMANIA 2 November 1950
ISRAEL 9 March 1950	SAUDI ARABIA 13 July 1950
LIBERIA 9 June 1950	TURKEY 31 July 1950
NORWAY 22 July 1949	VIET-NAM 11 August 1950
PANAMA 11 January 1950	
³ PHILIPPINES 7 July 1950	
YUGOSLAVIA 29 August 1950	

* With reservations. For text of reservations, see pp. 314-322 of this volume.

² United Nations, document A/64/Add. 1. 31 January 1947.