



# INTERNATIONAL COURT OF JUSTICE

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Summary

Unofficial

Summary 2025/5

25 July 2025

**Application of the Convention on the Prevention and Punishment of the Crime of Genocide  
(The Gambia v. Myanmar: 7 States intervening)**

**Admissibility of the Declarations of intervention**

**History of the proceedings (paras. 1-21)**

The Court begins by recalling that, on 11 November 2019, the Republic of The Gambia (hereinafter “The Gambia”) filed in the Registry of the Court an Application instituting proceedings against the Republic of the Union of Myanmar (hereinafter “Myanmar”) concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter the “Genocide Convention” or the “Convention”). In its Application, The Gambia sought to base the Court’s jurisdiction on Article IX of the Genocide Convention, in conjunction with Article 36, paragraph 1, of the Statute of the Court.

The Application contained a Request for the indication of provisional measures. By an Order dated 23 January 2020, the Court indicated certain provisional measures addressed to Myanmar.

On 20 January 2021, Myanmar raised preliminary objections to the jurisdiction of the Court and the admissibility of the Application. By a Judgment of 22 July 2022, the Court found that it had jurisdiction under Article IX of the Genocide Convention to entertain the Application filed by The Gambia on 11 November 2019, and that the said Application was admissible.

On 15 November 2023, the Republic of the Maldives (hereinafter the “Maldives”) filed a Declaration of intervention in the case, with reference to Article 63 of the Statute of the Court. On the same date, a joint Declaration of intervention was filed, pursuant to the same provision, by 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 (hereinafter the “Joint Declarants”). By an Order of 3 July 2024, the Court decided that the Declarations of intervention submitted by the Maldives and the Joint Declarants under Article 63 of the Statute of the Court were admissible in so far as they concerned the construction of provisions of the Genocide Convention.

Declarations of intervention under Article 63 of the Statute of the Court were also filed by the Republic of Slovenia (hereinafter “Slovenia”) on 29 November 2024, the Democratic Republic of the Congo (hereinafter the “DRC”) on 10 December 2024, the Kingdom of Belgium (hereinafter “Belgium”) on 12 December 2024 and by Ireland on 20 December 2024.

## **I. INTRODUCTION (PARAS. 22-29)**

The Court recalls that intervention under Article 63 of the Statute involves the exercise of a right by a State party to a convention the construction of which is in question before the Court. The object of the intervention is limited to the construction of the convention concerned. When a declaration of intervention is filed, the Court must ensure that it falls within the provisions of Article 63 of the Statute and that it meets the requirements set forth in Article 82 of the Rules of Court.

## **II. CONFORMITY OF THE DECLARATIONS OF INTERVENTION WITH THE REQUIREMENTS SET OUT IN ARTICLE 82 OF THE RULES OF COURT (PARAS. 30-47)**

The Court first examines whether the Declarations of intervention of Slovenia, the DRC, Belgium and Ireland comply with the requirements of Article 82 of its Rules.

### **A. Signature of the Declarations (paras. 31-36)**

With regard to the requirement of signature, the Court notes that the Declarations of Belgium and Ireland were signed by their respective Co-Agents, who are diplomatic representatives of their States at the seat of the Court; the Declaration of Slovenia was signed by its Agent, whose signature was authenticated by the Ambassador of Slovenia in the Netherlands; and the Declaration of the DRC was signed by its Agent, appointed by the Minister of Justice of the DRC, whose signature was subsequently authenticated by the DRC's Deputy Minister for Foreign Affairs, acting on behalf of the Minister of State, Minister for Foreign Affairs, International Co-operation and Francophonie.

Myanmar argues that the Declaration of the DRC is defective because the signature of its Agent was not authenticated by the diplomatic representative of the DRC at the seat of the Court or by the competent authority of the DRC's Foreign Ministry at the time of the filing on 10 December 2024.

The Court observes that while the Declaration of intervention of the DRC filed on 10 December 2024 was signed by its Agent, the latter's signature, at the time of the filing, was not authenticated in the manner provided for in Article 82, paragraph 1, of the Rules of Court, read together with Article 38, paragraph 3, of the Rules. The Court notes, however, that this defect was remedied when the Deputy Minister for Foreign Affairs of the DRC certified, in a letter dated 20 February 2025 and received in the Registry on 26 February 2025, that the signature on the DRC's Declaration of intervention was that of its appointed Agent. The Court notes that, although the Agent's signature was authenticated after the time-limit for filing a declaration of intervention, it was nevertheless done within a reasonable period of time. In the circumstances of the case, the Court considers that the lack of authentication of the signature is a defect of form that may be remedied after the expiry of the time-limit for filing a declaration of intervention, provided that the remedial action is taken within a reasonable period of time.

The Court finds, therefore, that the four Declarations of intervention fulfil the requirement regarding signature, under Article 82, paragraph 1, of the Rules of Court, read together with Article 38, paragraph 3, of the Rules.

### **B. Time-limit for the filing of the Declarations (paras. 37-43)**

The Court recalls that Article 82, paragraph 1, of the Rules of Court provides that a declaration of intervention "shall be filed as soon as possible, and no later than the date fixed for the filing of the Counter-Memorial". Pursuant to Article 82, paragraph 2, of the Rules, if the Court authorizes further written pleadings, a declaration of intervention "shall be filed as soon as possible, and not later than

the date fixed for the filing of the last written pleading”. In the present case, the Court authorized the Parties to file a Reply and a Rejoinder. Consequently, the time-limit for filing a declaration of intervention was 30 December 2024, the time-limit fixed for the filing by Myanmar of its Rejoinder.

Myanmar argues that the four Declarations of intervention are inadmissible because they were not filed “as soon as possible”, as required by Article 82, paragraph 2, of the Rules of Court. In this regard, the Court considers that the requirements stipulated in Article 82, paragraph 2, of the Rules of Court for the admissibility of a declaration of intervention — namely that a declaration of intervention must be filed “as soon as possible” and “not later than the date fixed for the filing of the last written pleading” — must be read together. Therefore, a declarant State satisfies the requirements under Article 82 if it files the declaration “as soon as possible”, but in any event by the date fixed by the Court for the filing of the last written pleading. The Court notes that the Declarations of intervention of Slovenia, the DRC, Belgium and Ireland were filed before 30 December 2024, the time-limit for the filing by Myanmar of its Rejoinder, the last written pleading in the case. The Court thus considers that the four Declarations of intervention were filed in a timely manner.

The Court finds, therefore, that the four Declarations of intervention fulfil the requirements of Article 82, paragraph 2, of the Rules of Court.

### **C. Requirements under Article 82, paragraph 5 (paras. 44-46)**

The Court examines next whether the Declarations of intervention comply with the requirements set out in Article 82, paragraph 5, of its Rules. It observes that the four Declarations state the names of the appointed agents and specify the case and the convention to which they relate. The Declarations also contain, in individual sections: (a) the basis on which the States seeking to intervene consider themselves to be parties to the Genocide Convention; (b) the provisions of the Genocide Convention they consider to be in question in the case; (c) the construction of the provisions for which they contend; and, where applicable, (d) a list of attached documents in support of the Declarations.

The Court finds that the Declarations of intervention comply with Article 82, paragraph 5, of the Rules of Court.

### **III. WHETHER THE DECLARATIONS OF INTERVENTION GO BEYOND THE PERMITTED SCOPE OF INTERVENTION UNDER ARTICLE 63 OF THE STATUTE (PARAS. 48-60)**

According to Myanmar, the Declarations of intervention at issue go beyond what is permissible under Article 63 of the Statute. In particular, Myanmar submits that substantial parts of the Declarations impermissibly address matters such as the means by which facts alleged to fall within the provisions of the Convention might be proven, the procedural history of the case, the question of genocidal intent, the standard of proof to be applied, claims that the declarant States have an interest in the case based on the *erga omnes partes* character of obligations under the Genocide Convention, and that the Declarations contain observations on the arguments of the Parties.

In Myanmar’s view, it is not sufficient for the Court merely to disregard the parts of the Declarations that go beyond the permitted scope of intervention under Article 63 of the Statute. Where significant portions of a declaration of intervention contain impermissible matters, as Myanmar submits is the case here, the Court should find the entire declaration inadmissible. At the very least, the Court should admit the declaration only to the extent that it concerns points of construction of the Convention.

The Court recalls that the right of intervention under Article 63 of its Statute is limited to the construction of the convention's provisions in question at the relevant stage of the proceedings. Under Article 82, paragraph 5 (b) and (c), of the Rules of Court, a State seeking to intervene must indicate the provisions of the convention the construction of which it considers to be in question and set out its position thereon. The Court is of the view that the Declarations of intervention at issue concern the construction of Articles I to VI of the Genocide Convention which is in question at the merits stage of the proceedings. In particular, the definition of the specific intent in Article II is relevant to the construction of the Convention. Article II is a key provision of the Convention, since it defines the acts and specific intent constituting genocide and informs several other provisions of the Convention, such as Articles I, III, IV, V and VI, the violation of which is alleged in the Application.

The Court observes that the Declarations at issue, in some instances, address matters other than the construction of provisions of the Genocide Convention, such as the evidentiary value of a certain category of documents, the facts or the application of the Convention to the facts. To that extent, the Court will not consider such matters and expects the interveners to refrain from addressing them in their written observations on the subject-matter of the intervention and in any observations made in the course of the oral proceedings. Moreover, references to other rules and principles of international law outside the Genocide Convention will be taken into account by the Court only in so far as they may be relevant for the construction of the Convention's provisions, in accordance with the customary rules of treaty interpretation reflected in the Vienna Convention on the Law of Treaties, in particular Article 31, paragraph 3 (c).

#### **IV. CONCLUSION (PARAS. 61-63)**

The Court concludes that the Declarations of intervention filed by Slovenia, the DRC, Belgium and Ireland are admissible in so far as they concern the construction of the provisions of the Genocide Convention. The Court further notes that it will not have regard to any part of the observations on the subject-matter of the intervention, submitted pursuant to Article 86 of the Rules of Court, going beyond the scope thus fixed.

The Court recalls the content of Article 86 of its Rules. It explains that, in accordance with this provision, Slovenia, the DRC, Belgium and Ireland will be furnished with copies of the written pleadings of the Parties. Further, the Court fixes the time-limit for them to submit their written observations on the subject-matter of their intervention. In accordance with Article 86, paragraph 2, of the Rules, the Court will determine at a later date whether the declarant States should be authorized to make observations in the course of the oral proceedings.

#### **OPERATIVE CLAUSE (PARA. 64)**

For these reasons,

THE COURT,

(1) Unanimously,

*Decides* that the Declaration of intervention under Article 63 of the Statute submitted by the Republic of Slovenia is admissible in so far as it concerns the construction of provisions of the Convention on the Prevention and Punishment of the Crime of Genocide;

(2) Unanimously,

*Decides* that the Declaration of intervention under Article 63 of the Statute submitted by the Democratic Republic of the Congo is admissible in so far as it concerns the construction of provisions of the Convention on the Prevention and Punishment of the Crime of Genocide;

(3) Unanimously,

*Decides* that the Declaration of intervention under Article 63 of the Statute submitted by the Kingdom of Belgium is admissible in so far as it concerns the construction of provisions of the Convention on the Prevention and Punishment of the Crime of Genocide;

(4) Unanimously,

*Decides* that the Declaration of intervention under Article 63 of the Statute submitted by Ireland is admissible in so far as it concerns the construction of provisions of the Convention on the Prevention and Punishment of the Crime of Genocide;

(5) Unanimously,

*Fixes* 25 September 2025 as the time-limit for the filing, by the Republic of Slovenia, the Democratic Republic of the Congo, the Kingdom of Belgium, and Ireland, of the written observations referred to in Article 86, paragraph 1, of the Rules of Court.

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Judge CLEVELAND appends a declaration to the Order of the Court.

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