



INTERNATIONAL COURT OF JUSTICE

Peace Palace, Carnegieplein 2, 2517 KJ The Hague, Netherlands

Tel.: +31 (0)70 302 2323 Fax: +31 (0)70 364 9928

Website: www.icj-cij.org

Press Release

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Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)
The Court to deliver its Judgment on the preliminary objections to jurisdiction raised by the Russian Federation on Friday 1 April 2011 at 10 a.m.

THE HAGUE, 15 March 2011. On Friday 1 April 2011, the International Court of Justice (ICJ), the principal judicial organ of the United Nations, will deliver its Judgment in the case concerning Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation).

A public sitting will take place at 10 a.m. at the Peace Palace in The Hague, during which the President of the Court, Judge Hisashi Owada, will read the Court's Judgment.

History of the proceedings

On 12 August 2008, the Republic of Georgia instituted proceedings against the Russian Federation in respect to a dispute concerning "actions on and around the territory of Georgia" in breach of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter "CERD") of 21 December 1965. In its Application, Georgia seeks to ensure that the individual rights under the Convention "of all persons on the territory of Georgia are fully respected and protected".

Georgia claims that the Russian Federation,

"through its State organs, State agents, and other persons and entities exercising governmental authority, and through the South Ossetian and Abkhaz separatist forces and other agents acting on the instructions of, and under the direction and control of the Russian Federation, is responsible for serious violations of its fundamental obligations under CERD, including Articles 2, 3, 4, 5 and 6".

According to Georgia, the Russian Federation "has violated its obligations under CERD during three distinct phases of its interventions in South Ossetia and Abkhazia", in the period from 1990 to August 2008.

Georgia requests the Court to order "the Russian Federation to take all steps necessary to comply with its obligations under CERD".

As a basis for the jurisdiction of the Court, Georgia, in its Application, relies on Article 22 of the Convention on the Elimination of All Forms of Racial Discrimination. It also reserves its right

to invoke, as an additional basis of jurisdiction, Article IX of the Genocide Convention, to which Georgia and the Russian Federation are parties.

Georgia's Application was accompanied by a request for the indication of provisional measures, in order to preserve its rights under CERD "to protect its citizens against violent discriminatory acts by Russian armed forces, acting in concert with separatist militia and foreign mercenaries".

In its request, Georgia reiterated its contention made in the Application that

"beginning in the early 1990s and acting in concert with separatist forces and mercenaries in the Georgian regions of South Ossetia and Abkhazia, the Russian Federation has engaged in a systematic policy of ethnic discrimination directed against the ethnic Georgian population and other groups in those regions".

Georgia further stated that "[o]n 8 August 2008, the Russian Federation launched a full-scale military invasion against Georgia in support of ethnic separatists in South Ossetia and Abkhazia" and that this "military aggression has resulted in hundreds of civilian deaths, extensive destruction of civilian property, and the displacement of virtually the entire ethnic Georgian population in South Ossetia".

Georgia claimed that "[d]espite the withdrawal of Georgian armed forces and the unilateral declaration of a ceasefire, Russian military operations continued beyond South Ossetia into territories under Georgian government control". Georgia further claimed that "[t]he continuation of these violent discriminatory acts constitutes an extremely urgent threat of irreparable harm to Georgia's rights under CERD".

Georgia requested the Court

"as a matter of utmost urgency to order the following measures to protect its rights pending the determination of this case on the merits:

- (a) the Russian Federation shall give full effect to its obligations under CERD;
- (b) the Russian Federation shall immediately cease and desist from any and all conduct that could result, directly or indirectly, in any form of ethnic discrimination by its armed forces, or other organs, agents, and persons and entities exercising elements of governmental authority, or through separatist forces in South Ossetia and Abkhazia under its direction and control, or in territories under the occupation or effective control of Russian forces;
- (c) the Russian Federation shall in particular immediately cease and desist from discriminatory violations of the human rights of ethnic Georgians, including attacks against civilians and civilian objects, murder, forced displacement, denial

of humanitarian assistance, extensive pillage and destruction of towns and villages, and any measures that would render permanent the denial of the right to return of IDPs, in South Ossetia and adjoining regions of Georgia, and in Abkhazia and adjoining regions of Georgia, and any other territories under Russian occupation or effective control”.

On 15 August 2008, having considered the gravity of the situation, the President of the Court, acting under Article 74, paragraph 4, of the Rules of Court, urgently called upon the Parties to act in such a way as would enable any order the Court might make on the request for provisional measures to have its appropriate effects.

Public hearings were held from 8 to 10 September 2008 to hear the oral observations of the Parties on the request for the indication of provisional measures.

On 15 October 2008, the Court handed down its Order, indicating *inter alia* that both Parties shall refrain from any act of racial discrimination and from sponsoring, defending or supporting such acts; that they shall facilitate humanitarian assistance; and that they shall refrain from any action which might prejudice the respective rights of the Parties or might aggravate or extend the dispute.

By an Order of 2 December 2008, the President fixed 2 September 2009 as the time-limit for the filing of a Memorial by Georgia and 2 July 2010 as the time-limit for the filing of a Counter-Memorial by the Russian Federation. The Memorial of Georgia was filed within the time-limit thus prescribed.

On 1 December 2009, within the time-limit set in Article 79, paragraph 1, of the Rules of Court, the Russian Federation filed preliminary objections in respect of jurisdiction. Pursuant to Article 79, paragraph 5, of the Rules of Court, the proceedings on the merits were then suspended.

By an Order of 11 December 2009, the Court fixed the time-limit for the filing by Georgia of a written statement containing its observations and submissions on the preliminary objections in respect of jurisdiction raised by the Russian Federation; it set that time-limit at 1 April 2010. It should be noted that the Parties had agreed on a time-limit of four months from the filing of the preliminary objections for the submission of the written statement. Georgia's written statement was filed within the time-limit thus prescribed.

In summer 2008, the Court announced that it would hold public hearings on preliminary objections from 13 to 17 September 2010.

During the hearings the delegation of the Russian Federation was led by Their Excellencies Mr. Kirill Gevorgian, Director, Legal Department, Ministry of Foreign Affairs of the Russian Federation and Mr. Roman Kolodkin, Ambassador of the Russian Federation to the Kingdom of the Netherlands, as Agents. The Republic of Georgia was led by Their Excellencies Ms Tina Burjaliani, First Deputy-Minister of Justice and Mr. Shota Gvineria, Ambassador of Georgia to the Kingdom of the Netherlands, as Agents.

Submissions of the Parties

At the end of the oral proceedings, the Agents of the Parties presented the following submissions to the Court:

For the Russian Federation:

“For the reasons advanced in the written Preliminary Objections and during the oral pleadings, the Russian Federation requests the Court to adjudge and declare that it lacks jurisdiction over the claims brought against the Russian Federation by Georgia, referred to it by the Application of Georgia of 12 August 2008.”

For Georgia:

“For the reasons advanced in the Written Statement of Georgia on Preliminary Objections and during the oral pleadings, Georgia respectfully requests the Court:

1. To dismiss the Preliminary Objections presented by the Russian Federation;
2. To hold that it has jurisdiction to hear the claims presented by Georgia, and that these claims are admissible.”

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NOTE TO THE PRESS AND PUBLIC

1. The public sitting will be held in the Great Hall of Justice of the Peace Palace. Mobile telephones are permitted in the courtroom provided they are switched off. Any offending device will be temporarily retained.

2. **Media representatives** are subject to **an online accreditation procedure**, details of which can be found in the Media Advisory (2011/e) attached to this Press Release. **The accreditation procedure will close at midnight on Wednesday 29 March 2011.**

3. **Individual visitors** (with the exception of members of the Diplomatic Corps) **and groups are subject to an online admission procedure**. They are kindly requested to fill out the relevant form on the Court’s website (click on “Attending a Hearing”). **The admission procedure will close at midnight Wednesday 29 March 2011.**

4. At the end of the sitting, a Press Release, a summary of the Judgment and the full text of the Judgment will be distributed. All of these documents will be made available at the same time on the Court’s website.

Information Department:

Mr. Andrey Poskakukhin, First Secretary of the Court, Head of Department (+31 (0)70 302 2336)

Mr. Boris Heim, Information Officer (+31 (0)70 302 2337)

Ms Joanne Moore, Associate Information Officer (+31 (0)70 302 2394)

Ms Genoveva Madurga, Administrative Assistant (+31 (0)70 302 2396)