



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Germany institutes proceedings against Italy for allegedly failing to respect its jurisdictional immunity as a sovereign State

THE HAGUE, 29 April 2022. The Federal Republic of Germany today instituted proceedings before the International Court of Justice against the Italian Republic for allegedly failing to respect its jurisdictional immunity as a sovereign State.

In its Application, Germany recalls that, on 3 February 2012, the Court rendered its Judgment on the issue of jurisdictional immunity in the case concerning *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*. The Applicant indicates that, “[n]otwithstanding [the] pronouncements [in that Judgment], Italian domestic courts, since 2012, have entertained a significant number of new claims against Germany in violation of Germany’s sovereign immunity”.

Germany refers in particular to Judgment No. 238/2014 of 22 October 2014 of the Italian Constitutional Court, whereby the latter “acknowledged ‘[t]he duty of the Italian judge . . . to comply with the ruling of the ICJ of 3 February 2012’” but, nevertheless, “subjected that same duty to the ‘fundamental principle of judicial protection of fundamental rights’ under Italian constitutional law, which it read to permit individual claims by victims of war crimes and crimes against humanity to be brought against sovereign States”.

Germany argues that Judgment No. 238/2014 of the Italian Constitutional Court, “adopted in conscious violation of international law and of Italy’s duty to comply with a judgment of the principal judicial organ of the United Nations, had wide-ranging consequences”. It adds that, since the delivery of the Judgment, “at least 25 new cases have been brought against Germany [before Italian courts]” and that “in at least 15 proceedings, Italian domestic courts . . . have entertained and decided upon claims against Germany in relation to conduct of the German Reich during World War II”.

In its Application, Germany asks the Court to adjudge and declare that:

- “(1) Italy has violated, and continues to violate, its obligation to respect Germany’s sovereign immunity by allowing civil claims to be brought against Germany based on violations of international humanitarian law committed by the German Reich between 1943 and 1945, including, but not limited to, in 25 proceedings, listed in Annex 6 [to the Application], instituted against Germany since the judgment of the Italian Constitutional Court of 22 October 2014.
- (2) Italy has violated, and continues to violate, its obligation to respect Germany’s sovereign immunity by taking, or threatening to take, measures of constraint against German State-owned properties situated in Italy, including against the Deutsches Archäologisches Institut Rom (German Archaeological Institute Rome), the Goethe Institut Rom (German Cultural Institute Rome), the Deutsches Historisches Institut

Rom (German Historical Institute Rome), and the Deutsche Schule Rom (German School Rome).

- (3) Italy is required to ensure that the existing decisions of its courts and those of other judicial authorities infringing Germany's right to sovereign immunity cease to have effect, including but not limited to, the 15 decisions listed in Annex 7 [to the Application].
- (4) Italy is required immediately to take effective steps to ensure that Italian courts no longer entertain civil claims brought against Germany based on violations of international humanitarian law committed by the German Reich between 1943 and 1945.
- (5) Italy is required to make full reparation for any injury caused through violations of Germany's right to sovereign immunity, including but not limited to, compensating Germany for any financially assessable injury resulting from proceedings conducted, and measures of constraint taken, in violation of Germany's sovereign immunity.
- (6) Italy is required to offer Germany concrete and effective assurances and guarantees that violations of Germany's sovereign immunity will not be repeated."

As the basis for the jurisdiction of the Court, Germany invokes Article 36, paragraph 1, of the Statute of the Court and Article 1 of the European Convention for the Peaceful Settlement of Disputes of 29 April 1957, to which both States are parties.

The Application of Germany contains 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. In its request, Germany asks the Court, *inter alia*, to order Italy to ensure that German properties indicated in the Application "are not subjected to a public auction pending a judgment by the Court on the merits" and that "no further measures of constraint are taken by [Italian] courts against German property".

Pursuant to Article 74 of the Rules of Court, "[a] request for the indication of provisional measures shall have priority over all other cases".

Note: The Court's press releases are prepared by its Registry for information purposes only and do not constitute official documents.

The Application instituting proceedings, which includes a request for the indication of provisional measures, is [available](#) on the Court's website.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. The seat of the Court is at the Peace Palace in The Hague (Netherlands). The Court has a twofold role: first, to settle, in accordance with international law, through judgments which have binding force and are without appeal for the parties concerned, legal disputes submitted to it by States; and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system.

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