



International Court of Justice (ICJ)

Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)

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Forum: International Court of Justice

Issue: Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)

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Introduction:

The International Court of Justice is one of the six main organs of the United Nations, located in the Hague, Netherlands. It was established in 1945 by the United Nations Charter. Its main function is to resolve inter-state (state v. state) disputes through international law. The court is made up of 15 judges selected by the UN General Assembly and Security Council. The Judges should be nationals of different states and serve nine year terms. The ICJ does not prosecute individuals and only deals with states as a whole. The UN organ that prosecutes individuals is the International Criminal Court (ICC).

The International Court of Justice sees two types of cases; advisory opinion and contentious cases. The advisory opinion cases are not legally binding but rather see cases in order to clarify international legal questions. They are seen as legal opinions given at the request of UN organs or specialised agencies. Contentious cases are legally binding cases to resolve state v. state disputes where only states can be parties. The Court's decisions are legally binding to the parties involved. The case Ukraine v. Russia is a contentious case, therefore the decisions of the Court will be legally binding.

The following case being presented is an ongoing case submitted by Ukraine to the Court against the Russian Federation, accusing them of abusing the Genocide Convention in order to justify their use of force against the state under International Law (Hereby referred to as IL). The research report will provide a foundation for all parties to have background information before the case is presented.

Definition of key terms:

Budapest Memorandum

An arrangement whereby Russia, the US, and the UK promised to respect Ukraine's sovereignty and current borders in return for Ukraine giving up its nuclear arsenal.



Crime of Aggression

A violation of international law that occurs when someone in a position of authority plans, prepares, initiates, or carries out an act of aggression.

Genocide Convention

A United Nations agreement that defines genocide and requires parties to take action to stop and punish genocide.

International Humanitarian Law

A body of regulations that, for humanitarian reasons, aim to lessen the impact of armed conflict by safeguarding those who choose not to take part in hostilities and limiting the tools and tactics of combat.

Memorandum

A written submission presented by a party in a contentious case before the ICJ

Minsk Agreements

A set of multilateral pacts agreed in 2014 and 2015 by Russia, Ukraine, and the Organisation for Security and Co-operation in Europe (OSCE) with the goal of ending violence in Ukraine's Donbas area.

Sovereignty

The power of a state to rule itself independently of outside intervention, including political independence and territorial integrity

UN Charter

The United Nations' founding document, which lays out the organization's goals, guiding ideals, and the rules governing international law and relations

General Overview:

Historical Context

In order to understand the present case at hand, one must look at the roots that make up the legal dispute. The roots of the case lie in the centuries of shared and contested identities, imperial



legacies and shifting borders in the ever-evolving geopolitical dynamics that make up International Relations. Ukraine was historically dominated by the Russian Empire and later after the Russian revolution, the Soviet Union. Within this, the Ukrainian identity was suppressed in favor of Russification. During this period where Ukraine was a part of the Russian empire which revolutionized into the Soviet Union, Ukraine faced the trauma of the Holodomor in the years of 1932-33, a man-made famine under Stalin's regime which caused the death of millions. This trauma became a foundational grievance in Ukrainian collective memory and is often recited as early signs of genocide.

Following the collapse of the Soviet Union which occurred in 1991, Ukraine became an independent state with internationally recognized borders, including the regions of Crimea and Donbas. While the newly created state of Ukraine attempted to forge its own national identity and liberal democracy, it remained economically and politically dependent on Russia for many years. Russia continued to exert its hard power through trade, energy dependence and political proxies.

In 2014, the annexation of Crimea occurred leading to more tensions between the two parties, creating separatist insurgencies in the region known as Donbas. This was followed by the Donbas war fought between Ukrainian forces and Russian separatists leading to approximately 13,000 dead and over 1.5 million displaced. Despite the agreements such as the Minsk agreement aimed at securing a ceasefire and political settlement, the conflict failed to resolve. Russia consistently denied direct military involvement while providing material, logistical and tactical support to the Pro-Russian separatists.

Geopolitical Context

In terms of geopolitical sphere, Ukraine is a battleground for competing blocs of influence: liberal, rules-based international order supported by the West against the authoritarian regional power model exemplified by Russia. Ukraine strategic position bordering several EU members and NATO member states makes it a vital country to buffer the Eastern power of Russia. Russia sees Ukraine's alignment with the Western Powers as a potential threat to its power and existence in the global political power dynamics. Ukraine has been involved in several treaties and agreements between NATO members with potential talks into entering the alliance. This would secure the Black Sea Channel and further isolate the Eastern Bloc's influence in Europe.

A significant escalation occurred in the 22 February 2022 invasion. Russia justified its actions by invoking the Genocide Convention, claiming that Ukraine had committed acts of genocide against Russian-speaking minorities in Donbas. This served both as a legal pretext and a propaganda tool for Moscow, aiming to legitimize military aggression as humanitarian



intervention as stated in the Genocide Convention. Russia claims that Ukraine threatened its right to exist, serving it as its legitimization of its use of force as well as a pillar for genocide. Russia further described the invasion as a “special military operation” aimed for “denazification” and “protecting Russian citizens”. However, these justifications were deemed baseless by many intergovernmental institutions such as The European Union and many legal scholars.

Jurisdiction of the Court

As previously mentioned in the introduction, the International Court of Justice acts as the principal judicial organ of the United Nations, deriving its jurisdiction from:

- The Statute of the ICJ (Article 36), which outlines the bases on which states may consent to the Court’s jurisdiction
- Special agreements, clauses in treaties and optional clause declarations under Article 36(2)

In present case, Ukraine invoked the ICJ’s jurisdiction under Article IX of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide), which states that:

“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.”

Both Ukraine and Russian Federation are parties to the Genocide Convention, which makes the ICJ competent *ratione materiae* (ie. Subject matter jurisdiction) and *ratione personae* (personal jurisdiction) to resolve disputes under the Convention between these two states.

Legal Basis

Ukraine’s application challenges Russia’s claim to justify its use of force under the pretext of preventing and punishing genocide against the Russian-speaking groups in the Donbas region.

Through this argument, Ukraine submitted an application to the Court with the following relevant Legal instruments and Article as the basis of discussion for both parties;

1948 Genocide Convention

- Article II: *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.*
- *Article III: The following acts shall be punishable:*
- *(a) Genocide;*
 - *(b) Conspiracy to commit genocide;*
 - *(c) Direct and public incitement to commit genocide;*
 - *(d) Attempt to commit genocide;*
 - *(e) Complicity in genocide*
- *Article VIII: Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.*
- *Article IX: 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.*

Ukraine argues that Russia has no legal basis for its use of force as well as that states have no independent right for states to use force as stated in Article VIII. Therefore, it claims that Russia's attack on the state is unlawful under the guise of IL. This is further strengthened through the UN charter that states as follows:

- *Article 2(4): All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.*
- *Article 51: Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under*



the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Through the Article 51 of the UN charter, Ukraine argues that Russia cannot invoke self defense as a claim of genocide does not constitute an armed attack. However, according to the Russian Federation's argument, Ukraine threatens its right and ability to exist within the Donbas region, therefore, creating a viable argument for its attack on Ukraine.

The main debate of the case is whether the conflict within the Donbas region can be constituted as genocide and under such guise, whether the Russian Federation's attack on Ukraine is lawful, considering the agreements between states to respect one another's sovereignty such as the Budapest Memorandum. This constitutes the arguments from both sides regarding proving and disproving the existence of genocide against the Russian-speaking groups in the Donbas region and whether through this genocide, Russia is acting in self-defense. One should note that the historical and geopolitical context are significant to the case and the motives of the countries parties to the case, however, the arguments presented to the court must be based on existing legal frameworks, treaties that both parties have ratified and credible witnesses. No argument shall be made under unjust, unsupported claims without evidence or legal documentation.

Key Events Timeline

February 24, 2022, Russia launches a full-scale invasion of Ukraine, marking a significant escalation in the ongoing conflict.

March 2, 2022, The UN General Assembly adopts a resolution demanding Russia's immediate withdrawal from Ukraine; 141 countries vote in favor.

March 7, 2022, The ICJ holds hearings on Ukraine's allegations against Russia under the Genocide Convention.

March 16, 2022, The ICJ orders Russia to suspend military operations in Ukraine, a ruling Russia does not comply with.

July 22, 2022, Ukraine, Russia, Turkey, and the UN sign the Black Sea Grain Initiative to resume Ukrainian grain exports.



July 2023, Russia withdraws from the Black Sea Grain Initiative, citing unfulfilled promises regarding sanctions relief.

May 2025, First direct peace talks in three years between Russia and Ukraine commence in Istanbul; Russian President Putin declines to attend.

Suggested Resources

([Genocide Convention](#)) – This is the Genocide convention, although it has certain parts have been provided in the General Overview, both judges and advocates should further look into legal basis.

([UN Charter](#)) – UN charter

([CFR Background](#)) – Provides context for the conflict between Russian and Ukraine

(<http://harvard.edu/>) - Assesses how the situation in Ukraine affects international law.

([Civil Law Journal](#)) - Investigates how the war between Russia and Ukraine violates international law.

([UNRIC](#)) – UN website providing the recent updates regarding the war

([Research briefings](#)) - Provides a thorough chronology of the war from 2022 to the present.

([CFR Russia's invasion and IL](#)) - Explains the ways in why Russia's invasion is illegal under international law

References



Chiu, Leo. "Who Are Russia's Allies? A List of Countries Supporting the Kremlin's Invasion of Ukraine." *Kyiv Post*, 23 Oct. 2023, www.kyivpost.com/post/13208/? Accessed 13 May 2025.

Conant, Eve. "Russia and Ukraine: The Tangled History That Connects—and Divides—Them." *National Geographic*, 24 Feb. 2023, www.nationalgeographic.com/history/article/russia-and-ukraine-the-tangled-history-that-connects-and-divides-them.

Guzel, Mehmet, et al. "Ukraine's Zelenskyy Arrives in Turkey for Peace Talks but Putin Is Absent." *AP News*, 15 May 2025, apnews.com/article/russia-ukraine-war-istanbul-talks-zelenskyy-putin-05795eea960b9035f93a143c3e177c3d.

Haddad, Mohammed. "Where Does Your Country Stand on the Russia-Ukraine War?" *Al Jazeera*, 16 Feb. 2023, www.aljazeera.com/news/2023/2/16/mapping-where-every-country-stands-on-the-russia-ukraine-war? Accessed 12 May 2025.

Masters, Jonathan. "Ukraine: Conflict at the Crossroads of Europe and Russia." *Council on Foreign Relations*, 14 Feb. 2023, www.cfr.org/backgrounder/ukraine-conflict-crossroads-europe-and-russia.

"Russia's Violation of International Law: What, Why, and How? | LawShun." *Lawshun.com*, 19 Jan. 2025, lawshun.com/article/how-did-russia-break-international-law? Accessed 9 May 2025.

