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ICJ Order on the Ukraine-Russia Conflict: Case Summary for CLAT

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Preparing for CLAT requires being constantly updated with the latest case laws. The ICJ order on the Ukraine-Russia conflict is one of them. Here are all the details.

Ukraine-Russia Conflict Case Information

Name: Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (*Ukraine* v. *Russian Federation*) [*hereinafter,* 'the Order']

Date of the Order: 16.03.2022

Cause of Action: Ukraine filed an application, instituting proceedings against the Russian Federation, concerning "a dispute . . . relating to the interpretation, application and fulfilment of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide" (*hereinafter,* 'the Genocide Convention').

Note: Both Russia and Ukraine are parties to the Genocide Convention.

Jurisdiction of the Court

The jurisdiction of the Court was invoked under the following provisions:

Article 36, ICJ Statute[i]

Article IX, Genocide Convention[ii]

Limitation of the Present Case

1. A case was initiated only under the Genocide Convention, so the case had to be decided only on those limited grounds/remedies claimed.
2. Russia's non-participation: The Russian Federation did not participate in the oral proceedings, but they did submit a document to the Court. In that context, the Court made the following observation, relying on numerous case laws:

"The Court recalls that the non-appearance of one of the States concerned cannot by itself constitute an obstacle to the indication of provisional measures. It emphasizes that the non-participation of a party in the proceedings at any stage of the case cannot, in any circumstances, affect the validity of its decision."[iii]

Observations/Decision of the Court

1. The Court has prima facie jurisdiction to entertain the issue.
2. There exists a prima facie dispute between the Parties relating to the interpretation, application or fulfilment of the Genocide Convention.
3. Ukraine is claiming a plausible right under the Genocide Convention.
4. Ukraine requested the Court to indicate a provisional measure directing the Russian Federation to "provide a report to the Court on measures taken to implement the Court's Order on Provisional Measures one week after such Order and then on a regular basis to be fixed by the Court". This particular measure was declined by the Court.

Observations with respect to the "power of the Court to indicate provisional measures"

1. The Court, pursuant to Article 41 of its Statute, has the power to indicate provisional measures when irreparable prejudice could be caused to rights which are the subject of judicial proceedings or when the alleged disregard of such rights may entail irreparable consequences.
2. Conditions for the exercise of this power: There should be an urgency, i.e., "real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision".[iv]

1. The conditions of urgency were held to be established in this case.

Operative Part of the Order on the Ukraine-Russia Conflict

"The Court considers that, with regard to the situation described above, **the Russian Federation must, pending the final decision in the case, suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine**.

In addition, recalling the statement of the Permanent Representative of the Russian Federation to the United Nations that the "Donetsk People's Republic" and the "Lugansk People's Republic" had

turned to the Russian Federation with a request to grant military support, the Court considers that the Russian Federation must also ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control or direction, take no steps in furtherance of these military operations."[v]

References:

[i] Full text available at https://www.icj-cij.org/en/statute#CHAPTER_II *accessed* 24.03.2022

[ii]Full text available at https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20o *accessed* 24.03.2022

[iii] Order, paragraph 33

[iv] *Id*., paragraph 66

[v] *Id*., paragraph 81

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