

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

APPLICATION OF THE CONVENTION
ON THE PREVENTION AND PUNISHMENT
OF THE CRIME OF GENOCIDE IN SUDAN

(SUDAN v. UNITED ARAB EMIRATES)

REQUEST FOR THE INDICATION
OF PROVISIONAL MEASURES

ORDER OF 5 MAY 2025

2025

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

APPLICATION DE LA CONVENTION
POUR LA PRÉVENTION ET LA RÉPRESSION
DU CRIME DE GÉNOCIDE AU SOUDAN

(SOUDAN c. ÉMIRATS ARABES UNIS)

DEMANDE EN INDICATION
DE MESURES CONSERVATOIRES

ORDONNANCE DU 5 MAI 2025

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5 MAY 2025

ORDER

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ORDONNANCE

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INTERNATIONAL COURT OF JUSTICE

YEAR 2025

2025
5 May
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5 May 2025

APPLICATION OF THE CONVENTION
ON THE PREVENTION AND PUNISHMENT
OF THE CRIME OF GENOCIDE IN SUDAN

(SUDAN v. UNITED ARAB EMIRATES)

REQUEST FOR THE INDICATION
OF PROVISIONAL MEASURES

ORDER

Present: President IWASAWA; Vice-President SEBUTINDE; Judges TOMKA, ABRAHAM, YUSUF, XUE, BHANDARI, NOLTE, CHARLESWORTH, BRANT, GÓMEZ ROBLEDÓ, CLEVELAND, AURESCU, TLADI; Judges ad hoc SIMMA, COUVREUR; Registrar GAUTIER.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Articles 41 and 48 of the Statute of the Court and Articles 73, 74 and 75 of the Rules of Court,

Makes the following Order:

1. On 5 March 2025, the Republic of the Sudan (hereinafter “Sudan”) filed in the Registry of the Court an Application instituting proceedings against the United Arab Emirates (hereinafter the “UAE”) regarding alleged violations by the UAE of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter the “Genocide

Convention”) in relation to the Masalit group in Sudan, most notably in West Darfur.

2. At the end of its Application, Sudan

“respectfully requests the Court to declare:

- (a) that the Republic of the Sudan and the United Arab Emirates are both bound and obliged by all international agreements and conventions which they are a party to, including and especially the Genocide Convention;
- (b) [t]hat the United Arab Emirates has breached and continues to breach its obligations under the Genocide Convention;
- (c) [t]hat the United Arab Emirates has violated and continues to violate Article 1 of the Charter of the United Nations, under which all states are obliged to maintain international peace and security, develop friendly relations among nations, and to take other appropriate measures to strengthen universal peace, achieving international cooperation and encouraging respect for human rights;
- (d) [t]hat the United Arab Emirates shall be obliged to cease immediately the acts and omissions which constitute breaches of the United Nations Charter, the Genocide Convention, and other international agreements and conventions which it is a party to;
- (e) [t]hat the United Arab Emirates must ensure that persons committing genocide, conspiring to commit genocide, directly and publicly inciting genocide, attempting to commit genocide and complicit in genocide are immediately instructed to permanently cease such acts and omissions;
- (f) that the United Arab Emirates must make full reparation for the injury caused [by] its internationally wrongful acts, including paying reimbursement to the victims of the war, and reimburse the Republic of the Sudan and its citizens for all substantial and incorporeal damages attributed to or caused by the United Arab Emirates’ support to the rebel [Rapid Support Forces] militia; and
- (g) must give assurances and undertaking of non-repetition of the breaches of its obligations indicated above, and commit to act in line with Article 1 of the United Nations Charter and its purpose.”

3. In its Application, Sudan seeks to found the Court’s jurisdiction on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention.

4. Together with its Application, Sudan submitted a Request for the indication of provisional measures with reference to Article 41 of the Statute of the Court and Articles 73, 74 and 75 of the Rules of Court.

5. At the end of its Request, Sudan asked the Court to indicate the following provisional measures:

- “(1) The United Arab Emirates shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Masalit in the Republic of the Sudan, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular:
 - (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; and
 - (d) imposing measures intended to prevent births within the group.
- (2) The United Arab Emirates shall, in relation to the members of the Masalit group, ensure that any irregular armed units which may be directed or supported by it and any organizations and persons which may be subject to its control, direction or influence, do not commit any acts described in point (1) above, or of conspiracy to commit genocide, of direct and public incitement to commit genocide, of attempts to commit genocide, or of complicity in genocide.”

6. The Registrar immediately communicated to the Government of the UAE the Application, in accordance with Article 40, paragraph 2, of the Statute of the Court, and the Request for the indication of provisional measures, in accordance with Article 73, paragraph 2, of the Rules of Court. He also notified the Secretary-General of the United Nations of the filing by Sudan of the Application and the Request for the indication of provisional measures.

7. By letters dated 11 March 2025, the Registrar informed the Parties that, pursuant to Article 74, paragraph 3, of its Rules, the Court had fixed 10 April 2025 as the date for the oral proceedings on the Request for the indication of provisional measures.

8. By a letter dated 11 March 2025, the Agent of the UAE stated that

“[h]aving regard to the manifest lack of jurisdiction to entertain the Applicant’s claims under Article IX of the Genocide Convention, the absence of any other basis of jurisdiction asserted in the Application and Request, and the absence of consent of the UAE to jurisdiction under

Article 38 (5) of the Rules of Court, the UAE requests the Court to remove the Application from the General List”.

9. Pending the notification provided for by Article 40, paragraph 3, of the Statute of the Court, the Registrar informed all States entitled to appear before the Court of the filing of the Application and the Request for the indication of provisional measures by a letter dated 17 March 2025.

10. By a letter dated 3 April 2025, the Agent of Sudan informed the Court that his Government wished to amend the measures requested in paragraph 22 of its Request for the indication of provisional measures as follows:

- “(1) The United Arab Emirates shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Masalit group in the Republic of the Sudan, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular:
 - (a) killing members of the group;
 - (b) causing serious bodily or mental harm to the 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; and
 - (d) imposing measures intended to prevent births within the group.
- (2) The United Arab Emirates shall, in accordance with its obligations under the Genocide Convention, in relation to the members of the Masalit group, refrain from any conduct amounting to complicity in the commission of any of the acts described in point (1) above by any irregular armed units, or by any organization or persons.
- (3) The United Arab Emirates shall submit a report to the Court on all measures taken to give effect to this Order within one month, as from the date of this Order, and thereafter every six months, until a final decision on the case is rendered by the Court.”

11. Since the Court included upon the Bench no judge of the nationality of either Party, each Party proceeded to exercise the right conferred upon it by Article 31 of the Statute of the Court to choose a judge *ad hoc* to sit in the case. Sudan chose Mr Bruno Simma and the UAE chose Mr Philippe Cuvreur.

12. At the public hearings held on 10 April 2025, oral observations on the Request for the indication of provisional measures were presented by:

On behalf of Sudan: HE Mr Muawia Osman Mohamed Khair,

Mr Eirik Bjorge,
 Mr Samuel Wordsworth,
 Mr Sean Aughey,
 Mr Paolo Palchetti.

On behalf of the UAE: Ms Reem Ketait,
 Mr Mathias Forteau,
 Sir Michael Wood,
 Ms Alison Macdonald,
 HE Ms Ameirah Al Hefeiiti.

13. At the end of its oral observations, Sudan asked the Court to indicate the following provisional measures:

“The Republic of the Sudan respectfully requests that, pending final judgment in this case, the Court indicate that:

- (1) The United Arab Emirates shall, in accordance with its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, in relation to the Masalit group in the Republic of the Sudan, take all measures within its power to prevent the commission of all acts within the scope of Article II of this Convention, in particular:
 - (a) killing members of the group;
 - (b) causing serious bodily or mental harm to the 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; and
 - (d) imposing measures intended to prevent births within the group.
- (2) The United Arab Emirates shall, in accordance with its obligations under the Genocide Convention, in relation to the members of the Masalit group, refrain from any conduct amounting to complicity in the commission of any of the acts described in point (1) above by any irregular armed units, or by any organization or persons.
- (3) The United Arab Emirates shall submit a report to the Court on all measures taken to give effect to this Order within one month, as from the date of this Order, and thereafter every six months, until a final decision on the case is rendered by the Court.”

14. At the end of its oral observations, the UAE requested the Court:

- “(1) to reject the request for the indication of provisional measures submitted by the Republic of the Sudan; and

- (2) to remove from the General List the case introduced by the Republic of the Sudan on 5 March 2025.”

15. At the end of the hearings, two judges put questions to the UAE, to which replies were given in writing, in accordance with Article 61, paragraph 4, of the Rules of Court. Pursuant to Article 72 of the Rules of Court, Sudan presented written comments on the written replies received from the UAE.

* * *

I. INTRODUCTION

16. The Court will begin by recalling that the present case came before it in the context of an ongoing conflict in Sudan that broke out in April 2023 between the Sudanese Armed Forces and a paramilitary organization known as the “Rapid Support Forces” and respective armed groups aligned with them. The Request filed by Sudan on 5 March 2025 refers, more specifically, to armed attacks targeting members of the Masalit group, a people primarily resident in the Sudanese region of West Darfur. In this regard, Sudan alleges, *inter alia*, that the Rapid Support Forces have engaged in extrajudicial killing, ethnic cleansing, forced displacement of civilians, rape, and burning of villages, and that they have systematically murdered men and boys on an ethnic basis, and deliberately targeted women and girls from certain ethnic groups for rape and other forms of sexual violence.

17. The Court is deeply concerned about the unfolding human tragedy in Sudan that forms the backdrop to the present dispute. The violent conflict has a devastating effect, resulting in untold loss of life and suffering, in particular in West Darfur. The scope of the case before the Court is, however, necessarily circumscribed by the basis of jurisdiction invoked in the Application.

II. PRIMA FACIE JURISDICTION

18. The Court may indicate provisional measures only if the provisions relied on by the applicant appear, *prima facie*, to afford a basis on which its jurisdiction could be founded, but it need not satisfy itself in a definitive manner that it has jurisdiction as regards the merits of the case (see *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, *Provisional Measures*, Order of 26 January 2024, *I.C.J. Reports 2024 (I)*, p. 11, para. 15).

19. In the present case, Sudan seeks to found the jurisdiction of the Court on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention (see paragraph 3 above). The Court must therefore first determine whether those provisions *prima facie* confer upon it jurisdiction to rule on the merits of the case, enabling it — if the other necessary conditions are fulfilled — to indicate provisional measures.

20. Article IX of the Genocide Convention provides:

“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.”

21. Both Sudan and the UAE are parties to the Genocide Convention, Sudan having acceded to the Convention on 13 October 2003 and the UAE on 11 November 2005. The UAE, when acceding to the Convention, formulated a reservation to Article IX which reads as follows:

“The Government of the State of the United Arab Emirates, having considered the aforementioned Convention and approved the contents thereof, formally declares its accession to the Convention and makes a reservation with respect to article 9 thereof concerning the submission of disputes arising between the Contracting Parties relating to the interpretation, application or fulfilment of this Convention, to the International Court of Justice, at the request of any of the parties to the dispute.”

22. No State objected to the reservation of the UAE, including Sudan.

* *

23. According to Sudan, Article IX of the Genocide Convention appears, *prima facie*, to afford a basis on which the Court’s jurisdiction could be founded in these proceedings.

24. Sudan maintains that the reservation entered by the UAE is “at least capable” of being interpreted so as not to exclude the jurisdiction of the Court. It argues that the text of the reservation is “vague and non-specific”, and that no other State has entered such a vague and non-specific reservation to the Genocide Convention. Sudan asserts that it is unclear what the intent of the UAE’s reservation is — in particular, in what respect the UAE seeks to exclude or modify the effects of Article IX, whether it might be to require further consent, or some preconditions to the seisin of the Court, or whether it might be intended as a statement that the UAE does not consider itself bound by Article IX save for when its own responsibility is directly at issue. Sudan justifies its reasoning in this latter regard by virtue

of the fact that the text of the UAE's reservation omits what it considers to be the key wording, namely "including those relating to the responsibility of a State for genocide", which is contained in Article IX of the Genocide Convention.

25. Further, Sudan considers that, should the Court not accept that the reservation is *prima facie* capable of being interpreted in the above-mentioned manner, the formulation by the UAE of the reservation is "at least capable, *prima facie*", of being incompatible with the object and purpose of the Convention and hence invalid. It contends that, through Article IX of the Genocide Convention, the Court "plays a pivotal role" in giving practical effect to the realization of the Convention's object to "safeguard the very existence of certain human groups". In particular, Sudan observes that the role of the Court, which extends to the Convention's fulfilment, is pivotal. Moreover, according to Sudan, it is legally irrelevant in this regard that Sudan did not object to the reservation.

*

26. The UAE, for its part, observes that Article IX of the Genocide Convention is the only basis of jurisdiction relied upon by Sudan. The UAE notes, however, that, due to the reservation to Article IX that it entered in 2005, Article IX is not in force between the Parties and cannot provide a basis of jurisdiction for the Applicant's claims against the UAE. According to the UAE, the formulation of the reservation is precise as to its object and effects. It can only be interpreted as expressing the intention of the UAE not to be bound by Article IX. The UAE contends, moreover, that the absence of an objection by Sudan signifies that it has accepted the reservation.

27. With regard to the validity of its reservation, the UAE notes that the Court has given full effect to reservations to Article IX of the Genocide Convention in the past and that, according to the well-established jurisprudence of the Court, reservations to Article IX are not contrary to the object and purpose of the Convention. In addition, the UAE specifies that it does not otherwise consent to the jurisdiction of the Court "for the purposes" of Article 38, paragraph 5, of the Rules of Court. Thus, having regard to the Court's manifest lack of jurisdiction to entertain the Applicant's claims under Article IX of the Genocide Convention, the absence of any other basis of jurisdiction and in the interest of the good administration of justice, the UAE requests that the Court remove the case from the General List.

* *

28. The Court recalls that it has jurisdiction in respect of States only to the extent that they have consented thereto. When a compromissory clause in a treaty provides for the Court's jurisdiction, that jurisdiction exists only in respect of the parties to the treaty who are bound by that clause and within the limits set out in the clause (see *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v.*

Rwanda), *Jurisdiction and Admissibility, Judgment, I.C.J. Reports 2006*, p. 32, para. 65).

29. The Court considers that the reservation made by the UAE to Article IX of the Genocide Convention (see paragraph 21 above) is formulated in clear terms in so far as it concerns “the submission of disputes . . . relating to the interpretation, application and fulfilment of [the] Convention, to the International Court of Justice”. In the Court’s view, the omission in the text of the reservation of the phrase “including those relating to the responsibility of a State for genocide” does not result in any uncertainty as to the effects of that reservation. This is because the reference in the reservation to the “interpretation, application and fulfilment” of the Genocide Convention encompasses the responsibility of a State, which is made clear by the use of the term “including” in Article IX. Consequently, the reservation by the UAE can only be interpreted as seeking to exclude the jurisdiction of the Court over all disputes, under Article IX of the Genocide Convention, to which the UAE may be a party.

30. The Court has already found in the past that reservations are not prohibited under the Genocide Convention (*Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951*, pp. 22 et seq.). However, a reservation under the Genocide Convention would not be permissible if such a reservation is incompatible with the object and purpose of the Convention (see *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 2006*, p. 32, para. 66).

31. The Court notes that the reservation of the UAE to Article IX of the Genocide Convention bears on the jurisdiction of the Court and does not affect substantive obligations relating to acts of genocide themselves under that Convention. In the circumstances of the present case, the Court cannot conclude that the reservation in question, which is meant to exclude a particular method of settling a dispute relating to the interpretation, application or fulfilment of the Convention, is to be regarded as incompatible with the object and purpose of the Convention. In fact, the Court has in the past given effect to reservations to Article IX (see *Legality of Use of Force (Yugoslavia v. Spain), Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999 (II)*, p. 772, paras. 32-33; *Legality of Use of Force (Yugoslavia v. United States of America), Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999 (II)*, p. 924, paras. 24-25; *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 2006*, pp. 32-33, paras. 67-70; *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Admissibility of the Declarations of Intervention, Order of 5 June 2023, I.C.J. Reports 2023 (II)*, pp. 375-377, paras. 90-98).

32. The Court thus considers that the UAE's reservation has the effect of excluding Article IX from the provisions of the Genocide Convention in force between the Parties (see *Legality of Use of Force (Yugoslavia v. United States of America)*, *Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999 (II)*, p. 924, para. 24).

33. The Court concludes from the foregoing that, having regard to the UAE's reservation to Article IX of the Genocide Convention, this Article cannot constitute, *prima facie*, a basis for the jurisdiction of the Court in the present case. It follows that the Court, lacking *prima facie* jurisdiction to entertain Sudan's Application, cannot indicate the provisional measures requested in order to protect the rights invoked in the Application submitted by Sudan.

34. In view of the above, there is no need for the Court to address whether other conditions for the indication of provisional measures have been met in the present case (see *Aegean Sea Continental Shelf (Greece v. Turkey)*, *Interim Protection, Order of 11 September 1976, I.C.J. Reports 1976*, p. 11, para. 33 and p. 13, para. 44; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*, *Provisional Measures, Order of 14 April 1992, I.C.J. Reports 1992*, p. 15, paras. 40 and 42-43).

III. REMOVAL OF THE CASE FROM THE GENERAL LIST

35. The Court further considers that, in light of the reservation made by the UAE to the compromissory clause contained in Article IX of the Genocide Convention and in the absence of any other basis of jurisdiction, the Court manifestly lacks jurisdiction to entertain Sudan's Application. In a system of consensual jurisdiction, to maintain on the General List a case upon which it appears certain that the Court will not be able to adjudicate on the merits would not contribute to the sound administration of justice (see *Legality of Use of Force (Yugoslavia v. United States of America)*, *Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999 (II)*, p. 925, para. 29; *Legality of Use of Force (Yugoslavia v. Spain)*, *Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999 (II)*, p. 773, para. 35). The present case will therefore be removed from the General List.

* * *

36. Having come to the conclusion that it manifestly lacks jurisdiction, the Court is precluded by its Statute from taking any position on the merits of the claims made by Sudan. However, as the Court has stated on numerous previous occasions, there is a fundamental distinction between the question of acceptance by States of the Court's jurisdiction and the conformity of their acts with international law. Whether or not States have accepted the

jurisdiction of the Court pursuant to Article IX of the Genocide Convention, they are required to comply with their obligations under that instrument, and they remain responsible for acts attributable to them which are contrary to their international obligations (see *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*, *Jurisdiction and Admissibility, Judgment*, *I.C.J. Reports 2006*, pp. 52-53, para. 127).

* * *

37. For these reasons,

THE COURT,

(1) By fourteen votes to two,

Rejects the Request for the indication of provisional measures submitted by the Republic of the Sudan on 5 March 2025;

IN FAVOUR: *President* Iwasawa; *Vice-President* Sebutinde; *Judges* Tomka, Abraham, Xue, Bhandari, Nolte, Charlesworth, Brant, Gómez Robledo, Cleveland, Aurescu, Tladi; *Judge ad hoc* Couvreur;

AGAINST: *Judge* Yusuf; *Judge ad hoc* Simma;

(2) By nine votes to seven,

Orders that the case be removed from the General List.

IN FAVOUR: *President* Iwasawa; *Vice-President* Sebutinde; *Judges* Tomka, Abraham, Xue, Nolte, Brant, Aurescu; *Judge ad hoc* Couvreur;

AGAINST: *Judges* Yusuf, Bhandari, Charlesworth, Gómez Robledo, Cleveland, Tladi; *Judge ad hoc* Simma.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this fifth day of May, two thousand and twenty-five, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of the Sudan and the Government of the United Arab Emirates, respectively.

(Signed) IWASAWA Yuji,
President.

(Signed) Philippe GAUTIER,
Registrar.

Judge YUSUF appends a dissenting opinion to the Order of the Court; Judges BHANDARI, CHARLESWORTH, GÓMEZ ROBLEDÓ, CLEVELAND, TLADI and Judge *ad hoc* SIMMA append a joint partly dissenting opinion to the Order of the Court; Judge GÓMEZ ROBLEDÓ appends a dissenting opinion to the Order of the Court; Judge *ad hoc* SIMMA appends a declaration to the Order of the Court.

(Initialed) I.Y.

(Initialed) Ph.G.

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