

**SPEECH BY H.E. JUDGE JOAN E. DONOGHUE, PRESIDENT OF THE INTERNATIONAL COURT
OF JUSTICE, ON THE OCCASION OF THE SEVENTY-SEVENTH SESSION
OF THE UNITED NATIONS GENERAL ASSEMBLY**

27 OCTOBER 2022

Mr. President,
Excellencies,
Distinguished Delegates,

It is an honour for me to address the General Assembly today, on the occasion of your examination of the annual report of the International Court of Justice (ICJ). I am grateful for this opportunity to present a brief overview of the judicial activities of the principal judicial organ of the United Nations over the last year, in accordance with a well-established tradition that reflects the interest and support for the Court shown by this eminent Assembly.

Let me, at the outset, take the opportunity to congratulate His Excellency Mr. Csaba Kőrösi, on his election as President of the seventy-seventh session of the General Assembly and to wish him every success in this important role.

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Mr. President,

Before I begin my overview of the Court's recent activities, I would like to pay tribute, on behalf of the Court, to Judge Antônio Augusto Cançado Trindade, who passed away on 29 May of this year. Judge Cançado Trindade was an eminent jurist and an ardent believer in international law as a "people-centred" discipline, dedicated to the service of humanity. This compassionate perspective was a mainstay throughout his illustrious career as a judge and President of the Inter-American Court of Human Rights, as Legal Adviser to the Ministry of External Relations of Brazil, as a renowned professor and academic, and as a judge at the International Court of Justice. Judge Cançado Trindade's passing is a true loss to the international law community. He is sorely missed by his friends and colleagues on the Bench.

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Mr. President,

I shall begin with an update on the Court's judicial work. Since 1 August 2021 — the starting date of the period covered by the Court's annual report — the Court has been very busy. Our docket is full, with 16 contentious cases currently on our List, involving States from all four corners of the world and covering a wide range of legal issues, from land and maritime delimitation, to questions regarding international watercourses, to alleged violations of bilateral and multilateral treaties concerning, among other things, the elimination of racial discrimination and the prevention and punishment of genocide.

Five new cases have been instituted since 1 August 2021, two of which I had mentioned briefly in my speech to you last year — namely, two cases concerning alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination (to which I shall refer as the “CERD”), the first brought by Armenia against Azerbaijan, and the second brought by Azerbaijan against Armenia.

In addition, on 27 February 2022, Ukraine submitted an Application instituting proceedings against the Russian Federation under the Convention on the Prevention and Punishment of the Crime of Genocide (to which I shall refer as the “Genocide Convention”), accompanied by a request for the indication of provisional measures, about which I shall say more shortly.

On 29 April 2022, proceedings were instituted by Germany against Italy with regard to the latter’s alleged failure to respect Germany’s jurisdictional immunity. The Application of Germany contained a request for the indication of provisional measures, which was, however, withdrawn on 5 May 2022, a few days before the scheduled hearings on that request were due to open.

The most recent case to be added to the docket concerns the proceedings instituted by Equatorial Guinea against France on 30 September 2022 with regard to the alleged violation by France of its obligations under the United Nations Convention against Corruption of 31 October 2003. The Applicant contends, among other things, that France is under an obligation to return to Equatorial Guinea certain property which constitutes the proceeds of a crime of misappropriation of public funds committed against it, including a building located at 40-42 avenue Foch in Paris. The Application instituting proceedings in this case was also accompanied by a request for the indication of provisional measures, on which a hearing had been scheduled to take place next month. Last week, however, Equatorial Guinea withdrew that request.

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Mr. President,

Since 1 August 2021, the Court has held hearings in seven cases and has delivered four Judgments and three Orders on provisional measures. In addition, earlier this month, the Court issued an Order on a request for modification of previously-imposed provisional measures.

As is customary, I shall now give a brief account of the substance of those decisions. Because I provided a summary of the Court’s Judgment of 12 October 2021 on the merits of the case concerning *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)* in my address last year, I shall focus today on the other decisions issued by the Court in the period under review.

On 9 February 2022, the Court rendered its Judgment on the question of reparations in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*. That case had been decided on the merits in 2005, the Court having held that Uganda was under an obligation to make reparation to the DRC for the injury caused by its violation of the principles of non-use of force and non-intervention, as well as of obligations incumbent upon it under international human rights law and international humanitarian law and obligations concerning natural resources. In its 2005 Judgment, the Court had also found that the DRC was under an obligation to make reparation to Uganda for the injury caused by the DRC’s violation of the 1961 Vienna Convention on Diplomatic Relations. The Court had further decided in 2005 that, failing agreement between the Parties, the question of reparations due would be settled by the ICJ. On 13 May 2015, considering that negotiations with Uganda had failed, the DRC requested that the Court determine the amount of reparation owed. The Court thus resumed the proceedings on the question of reparations. At the close of the oral proceedings, which were held in April 2021, Uganda indicated

that it wished to withdraw its claim for compensation. Therefore, the Court's Judgment deals exclusively with the question of the reparations owed by Uganda to the DRC.

While the Court had previously rendered a few other judgments on compensation, the *DRC v. Uganda* case was the first instance in which it was called upon to rule on reparations for large-scale deaths and personal injuries arising out of an armed conflict. The Court also addressed claims for damage to homes and other private property, as well as government property, such as schools, and decided claims related to a variety of natural resources, including minerals and timber.

In the operative part of its Judgment, the Court awarded US\$225,000,000 for damage to persons, US\$40,000,000 for damage to property and US\$60,000,000 for damage related to natural resources. The Court also decided that the total amount due by Uganda was to be paid in five annual instalments, each of US\$65,000,000, starting on 1 September 2022.

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On 21 April 2022, the Court delivered its Judgment on the merits in the case concerning *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*. By an earlier Judgment, dated 17 March 2016, the Court had found that it had jurisdiction to entertain the dispute between the Parties on the basis of the American Treaty on Pacific Settlement, to which I shall refer as the Pact of Bogotá. In that Judgment, the dispute subject to the Court's jurisdiction was described as one regarding alleged violations by Colombia of Nicaragua's rights in the maritime zones which, according to Nicaragua, the Court had declared to appertain to Nicaragua in its 2012 Judgment in the case concerning *Territorial and Maritime Dispute*, an earlier case between the Parties. Subsequently, in its Counter-Memorial, Colombia submitted four counter-claims, two of which were found to be admissible by the Court in an Order dated 15 November 2017.

In its Judgment of 21 April 2022, the Court first concluded that it had jurisdiction *ratione temporis* to consider Nicaragua's claims relating to incidents that had allegedly occurred after 27 November 2013, the date on which the Pact of Bogotá had ceased to be in force for Colombia.

A notable feature of the case was that the applicable law between the Parties was customary international law, since Colombia is not a party to the United Nations Convention on the Law of the Sea (to which I shall refer as "UNCLOS"). The Court was thus called upon to consider whether certain provisions of UNCLOS reflect customary international law.

With regard to the first claim of Nicaragua, the Court found that Colombia had breached its obligation to respect Nicaragua's sovereign rights and jurisdiction in the latter's exclusive economic zone. In particular, Colombia had interfered with the fishing and marine scientific research activities of Nicaraguan-flagged or Nicaraguan-licensed vessels and with the operations of Nicaraguan naval vessels, had purported to enforce conservation measures and had authorized fishing activities in that zone. The Court concluded, in this regard, that Colombia must immediately cease its wrongful conduct.

Turning to the second claim of Nicaragua, the Court considered that Colombia was entitled to establish a contiguous zone around the San Andrés Archipelago, but found that the "integral contiguous zone" established by a Colombian Presidential Decree was not in conformity with customary international law as reflected in Article 33, paragraph 1, of UNCLOS, both in respect of its geographical extent and with regard to certain powers claimed by Colombia within that zone. It held that Colombia was under an obligation, by means of its own choosing, to bring the provisions

of the relevant Presidential Decree into conformity with customary international law in so far as they related to maritime areas declared by the Court in its 2012 Judgment to appertain to Nicaragua.

The Court then turned to the counter-claims made by Colombia. It dismissed the counter-claim relating to the alleged infringement by Nicaragua of customary artisanal fishing rights of the local inhabitants of the San Andrés Archipelago on the basis that the evidence adduced did not support the existence of such rights.

The Court then examined the counter-claim relating to Nicaragua's establishment of straight baselines from which the breadth of its territorial sea is measured. The Court found that Nicaragua's straight baselines did not meet the requirements of customary international law reflected in Article 7, paragraph 1, of UNCLOS. Further, by purporting to convert into internal waters certain areas that would otherwise have been part of Nicaragua's territorial sea or exclusive economic zone and to convert into territorial sea certain areas which would have been part of Nicaragua's exclusive economic zone, Nicaragua's straight baselines denied Colombia the rights to which it was entitled in those zones. The Court concluded that a declaratory judgment to the effect that the straight baselines established by Nicaragua did not conform with customary international law was an appropriate remedy.

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On 22 July 2022, the Court rendered its Judgment on preliminary objections in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*. That case was instituted by The Gambia against Myanmar for alleged violations by the latter of its obligations under the Genocide Convention through acts adopted, taken and condoned by its Government against members of the Rohingya group. The Court had indicated provisional measures in this case in 2020. The Gambia sought to found the jurisdiction of the Court on Article IX of the Genocide Convention.

Myanmar raised four preliminary objections to the jurisdiction of the Court and the admissibility of The Gambia's application. First, it submitted that the "real applicant" in the proceedings was not The Gambia but was rather the Organisation of Islamic Cooperation, an international organization that cannot be a party to proceedings before the Court. Second, Myanmar argued that there was no dispute between the Parties on the date of filing of the Application. Third, it claimed that The Gambia could not validly seise the Court in light of Myanmar's reservation to Article VIII of the Genocide Convention. Finally, Myanmar submitted that The Gambia lacked standing to bring the case before the Court because it was not an "injured State" and thus had failed to demonstrate an individual legal interest.

In its ruling, the Court indicated that it was satisfied that the Applicant in this case was The Gambia and that a dispute relating to the interpretation, application and fulfilment of the Genocide Convention existed between the Parties on the date of filing of the Application. With respect to Myanmar's reservation to Article VIII of the Convention, the Court found that that provision did not govern its seisin, and therefore Myanmar's reservation was irrelevant for the purposes of determining whether the Court had been properly seised of the case before it. The Court also found that The Gambia, as a State party to the Genocide Convention, had standing to invoke the responsibility of Myanmar for the alleged breaches of its obligations *erga omnes partes* under the Convention.

The Court thus rejected the four preliminary objections raised by Myanmar, and found that it had jurisdiction, on the basis of Article IX of the Genocide Convention, to entertain the Application filed by The Gambia and that said Application was admissible. The proceedings on the merits of this

case, which had been suspended following the filing of Myanmar's preliminary objections, have now resumed.

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Mr. President,

The Court delivered three orders on the indication of provisional measures during the period under review. Before I summarize those orders, I shall briefly recall the criteria that the Court applies when presented with a request for the indication of provisional measures. First, the title of jurisdiction invoked by the applicant must appear, *prima facie*, to provide a basis on which the Court's jurisdiction could be founded. Second, the rights asserted by the party requesting provisional measures must be at least plausible and a link must exist between the rights whose protection is sought and the provisional measures requested. Third, the Court must be satisfied that irreparable prejudice could be caused to rights which are the subject of judicial proceedings or that the alleged disregard of such rights may entail irreparable consequences, and there must be urgency, in the sense that there is a real and imminent risk that irreparable prejudice will be caused to the rights claimed before the Court gives its final decision.

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Mr. President,

When I spoke before this Assembly last year, I mentioned that the Court was then deliberating on two requests for the indication of provisional measures in the cases concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)* and *(Azerbaijan v. Armenia)*. Both cases arose out of alleged acts of racial discrimination against persons of Armenian or Azerbaijani national or ethnic origin carried out during and after the hostilities in the Nagorno-Karabakh region erupted in autumn 2020, which are referred to in the Orders as the "2020 Conflict". Each State, in its respective Application, alleged that the other had acted in violation of the CERD.

On 7 December 2021, the Court rendered its Orders on the indication of provisional measures in those cases. In both of those Orders, the Court concluded that it had jurisdiction, *prima facie*, under the CERD.

In the *Armenia v. Azerbaijan* case, the Court found plausible the right under the CERD of prisoners of war and civilian detainees held in Azerbaijan not to be subjected to inhuman or degrading treatment based on their ethnic or national origin, as well as the rights allegedly violated through incitement and promotion of racial hatred by high-ranking officials of Azerbaijan and through vandalism and desecration affecting Armenian cultural heritage. The Court held that the CERD did not, however, plausibly require Azerbaijan to repatriate civilian detainees and prisoners of war. In that connection, the Court noted that international humanitarian law governs the release of persons fighting on behalf of one State who were detained during hostilities with another State. It also recalled that measures based on current nationality did not fall within the scope of the CERD.

The Court found that a link existed between some of the rights claimed by Armenia and at least one of the requested provisional measures, and that the requirements of a risk of irreparable prejudice and urgency were met. It thus ordered Azerbaijan, in accordance with that State's

obligations under the CERD, first, to protect from violence and bodily harm all persons captured in relation to the 2020 Conflict and ensure their security and equality before the law; secondly, to take all necessary measures to prevent the incitement and promotion of racial hatred and discrimination, including by its officials and public institutions, targeted at persons of Armenian national or ethnic origin; and, thirdly, to take all necessary measures to prevent and punish acts of vandalism and desecration of Armenian cultural heritage. The Court also called on both Parties to refrain from actions which might aggravate or extend the dispute.

In the *Azerbaijan v. Armenia* case, the Court found plausible under the CERD the rights allegedly violated through Armenia's failure to condemn the activities within its territory of groups characterised by Azerbaijan as armed ethnonationalist hate groups, as well as Armenia's failure to punish those responsible for such activities. The Court found, however, that the CERD did not plausibly require Armenia to cease planting landmines or to enable Azerbaijan to undertake demining. In that connection, the Court recognized that a policy of driving persons of a certain national or ethnic origin from a particular area, as well as preventing their return thereto, could implicate rights under the CERD, but found, prima facie, that Azerbaijan had not placed before it evidence indicating that Armenia's alleged conduct with respect to landmines had the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of rights of persons of Azerbaijani national or ethnic origin.

The Court found that a link existed between some of the rights claimed by Azerbaijan and at least one of the requested provisional measures, and that the requirement of a risk of irreparable prejudice and urgency was met. It thus ordered Armenia, in accordance with that State's obligations under the CERD, to take all necessary measures to prevent the incitement and promotion of racial hatred, including by organizations and private persons in its territory, targeted at persons of Azerbaijani national or ethnic origin. The Court also called on both Parties to refrain from actions which might aggravate or extend the dispute.

On 19 September 2022, Armenia submitted a request pursuant to Article 76 of the Rules of Court for the Court to modify its Order of 7 December 2021 indicating provisional measures in the case brought by Armenia against Azerbaijan. Paragraph 98, point 1 (a), of that Order requires Azerbaijan to protect from violence and bodily harm all persons captured in relation to the 2020 Conflict and to ensure their security and equality before the law, in accordance with Azerbaijan's obligations under the CERD. Armenia requested the Court to modify the 2021 Order "to explicitly require Azerbaijan to protect from violence and bodily harm all persons captured in relation to the 2020 Conflict, or any armed conflict between the Parties since that time, upon capture or thereafter, including those who remain in detention".

In its Order of 12 October 2022, the Court concluded that the hostilities which had erupted between the Parties in September 2022 and the ensuing detention of Armenian military personnel did not constitute a change in the situation justifying modification of its earlier Order indicating provisional measures. The Court affirmed that treatment in accordance with paragraph 98, point 1 (a), of its Order of 7 December 2021 is to be afforded to any person who has been or may come to be detained during any hostilities that constitute a renewed flare-up of the 2020 Conflict. Further, the Court reaffirmed the provisional measures indicated in its Order of 7 December 2021, in particular the requirement for both Parties to refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

On 16 March 2022, the Court delivered its Order on provisional measures in the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*. The case was instituted by Ukraine on 26 February 2022, invoking Article IX of the Genocide Convention as the basis of the Court's jurisdiction. Ukraine's claims centred on the initiation by the Russian Federation of "a 'special military operation' against Ukraine with the express purpose of preventing and punishing purported acts of genocide that have no basis in fact".

The Russian Federation did not appear at the oral proceedings on the request for the indication of provisional measures, which opened on 7 March 2022. However, shortly after the closure of the hearing, the Ambassador of the Russian Federation to the Kingdom of the Netherlands communicated to the Court a document setting out "the position of the Russian Federation regarding the lack of jurisdiction of the Court in t[he] case".

In its Order, the Court found that it had jurisdiction, *prima facie*, to entertain the case. It noted in this regard that the elements presented to it were sufficient at that stage to establish, on a *prima facie* basis, the existence of a dispute between the Parties relating to the interpretation, application or fulfilment of the Genocide Convention as required under Article IX thereof.

The Court then turned to the question of the plausibility of the rights whose protection was sought. It noted that Ukraine stated that it sought provisional measures to protect its rights "not to be subject to a false claim of genocide", and "not to be subjected to another State's military operations on its territory based on a brazen abuse of Article I of the Genocide Convention". The Court observed that, in accordance with Article I of the Convention, all States parties thereto have undertaken to prevent and punish the crime of genocide. While Article I does not specify the kinds of measures that may be taken to fulfil this obligation, the Contracting Parties must implement this obligation in good faith, taking into account other parts of the Convention. In particular, the Court emphasized that, in discharging its duty to prevent genocide, every State may only act within the limits permitted by international law. The acts undertaken by the Contracting Parties to prevent and to punish genocide must be in conformity with the spirit and aims of the United Nations, as set out in Article 1 of the United Nations Charter, establishing the overriding purpose of the organization to maintain and promote international peace and security. Under these circumstances, the Court concluded that Ukraine had a plausible right not to be subjected to military operations by the Russian Federation for the purpose of preventing and punishing an alleged genocide in the territory of Ukraine. Further, the Court concluded that a link existed between the right of Ukraine that it had found to be plausible and the requested provisional measures.

The Court also concluded that the right of Ukraine that it had found to be plausible was of such a nature that prejudice to that right was capable of causing irreparable harm, and that there was urgency. It observed that any military operation, in particular one on the scale of that carried out by the Russian Federation on the territory of Ukraine, inevitably causes loss of life, mental and bodily harm, and damage to property and to the environment. In this regard, the Court took note, in particular, of the Resolution adopted by the General Assembly on 2 March 2022 at its eleventh emergency special session.

In light of the above considerations, the Court found that the conditions for it to indicate provisional measures were met. It ordered the Russian Federation to immediately suspend the military operations that it had commenced on 24 February 2022 in the territory of Ukraine and to ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations or persons which may be subject to its control or direction, take no steps in furtherance of the said military operations. The Court also called upon both Parties to refrain from any action which might aggravate or extend the dispute or make it more difficult to resolve.

Following the delivery of the Order on the request for the indication of provisional measures, the Court, after consulting the Parties, fixed the time-limits for the filing of the Memorial of Ukraine and the Counter-Memorial of the Russian Federation. Ukraine filed its Memorial on 1 July 2022, within the time-limit thus fixed. Since then, 22 declarations of intervention in this case have been filed. The European Union has also filed a document in these proceedings, referring to Article 34, paragraph 2, of the Statute, which permits international organizations to present information relevant to cases before the Court.

On 3 October 2022, the Russian Federation appointed an Agent for the purposes of the case and filed preliminary objections to the jurisdiction of the Court and to the admissibility of the Application, pursuant to Article 79*bis* of the Rules of Court. In accordance with paragraph 3 of that Article, the proceedings on the merits are now suspended, pending the Court's decision on the preliminary objections filed by the Russian Federation. Ukraine has been given until 3 February 2023 to present a written statement of its observations and submissions on those preliminary objections.

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Mr. President,

Moving briefly to the current deliberations of the ICJ, as well as what lies ahead, I note that, at present, the Court is deliberating on the merits of two cases. In the case concerning the *Dispute over the Status and Use of the Waters of the Silala (Chile v. Bolivia)*, in which hearings were held in April 2022, the Court is considering claims and counter-claims pertaining to the Parties' rights and obligations with regard to the Silala River, which originates in Bolivian territory and flows into Chile. In the case concerning *Certain Iranian Assets (Islamic Republic of Iran v. United States of America)*, in which hearings were held last month, the Court is also engaged in deliberations. That case focuses on the assets of certain Iranian entities that were blocked and attached by the Respondent. In the Applicant's view, these actions violated the Respondent's obligations under the Treaty of Amity, Economic Relations, and Consular Rights concluded between the two States in 1955. I shall defer a more detailed review of those cases until my next report.

I shall also mention that, in the two months remaining in this calendar year, the Court had been planning to hold hearings in three further cases. These included the hearing on the request for the indication of provisional measures in the case between Equatorial Guinea and France, which I mentioned earlier and which has now been cancelled. The Court will thus hold, in the coming weeks, a hearing on the merits of the case concerning the *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicaragua v. Colombia)*, as well as a hearing on preliminary objections to admissibility in the case concerning *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*. In relation to this last case, you may recall that, in my address to the General Assembly last year, I had provided an overview of the Judgment on jurisdiction issued by the Court on 18 December 2020, following a hearing in which only Guyana had participated. However, on 6 June 2022, Venezuela appointed an agent and filed preliminary objections to the admissibility of Guyana's Application, which are currently pending before the Court.

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Mr. President,

The period covered in the Court's latest annual report was marked by the gradual transition from hybrid to in-person working methods, as restrictions arising from the COVID-19 pandemic started to be lifted in many parts of the world, including the Netherlands, our host country. I am happy to report that the Court has returned to in-person working methods for its public hearings and private meetings, with effect from 1 June 2022. Some precautions have still been retained, and the Court continues to closely monitor developments in the public health situation.

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Mr. President,

Before concluding my remarks, I would like to say a bit more about the procedural mechanism of intervention, which has recently generated great interest in the context of certain cases pending before the Court.

As I mentioned earlier, a number of declarations of intervention have been filed by States under Article 63 of the Statute of the Court in the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*. Other States have publicly expressed an intention to intervene, both in the above-mentioned case and in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*. I stress that I am not making a comment today on any particular case. However, given the current interest in the subject, I thought it might be helpful to offer an overview of the provisions that govern intervention at the ICJ. While this topic is quite technical, I shall attempt today to provide some background, at a higher level, of the way in which intervention is understood at the International Court of Justice.

I start by mentioning that the term "intervention" has varying implications in national legal systems. The criteria for authorizing intervention and the consequences of successful intervention depend on the specific rules applicable in the relevant legal system. In particular, in the courts of many States, the régime for intervention in civil cases contemplates that a successful intervenor becomes a party to the case and thus is bound by the decisions of that court, as are the original parties.

In the ICJ, the notion of intervention has a specialized meaning. In fact, the Court's Statute provides for two different kinds of intervention, with two specific sets of criteria that govern whether States will be permitted to intervene and with different consequences that result therefrom. I shall say a few words about each of these régimes.

Under Article 62 of the Statute, a State may submit to the Court a request to be permitted to intervene in a case. To support its request to intervene under Article 62, a State indicates what it considers to be its "interests of a legal nature" that may be affected by the Court's decision in the case. It is then for the Court to ascertain whether the State which has submitted the request has an "interest of a legal nature which may be affected by the decision in the case".

If the Court grants permission to intervene under Article 62, it may specify the scope of the permitted intervention by the intervening State. The intervening State is then entitled to submit a written statement and to present oral observations with respect to the subject-matter of the intervention in the oral proceedings.

Article 62 does not specify the legal consequences that the Court's final judgment has for the intervening State. In the Court's jurisprudence, however, reference has been made to two possibilities — that the intervening State would become a party to the case or that it would be allowed to intervene without becoming a party. The distinction is a significant one because Article 59 of the Statute indicates that only the parties to a given case are bound by the Court's judgment in that case. To date, no State that has sought to intervene pursuant to Article 62 has been permitted to intervene as a party.

The most recent example of intervention under Article 62 of the Statute is provided by the case concerning *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*. The Court specified the scope of the observations that Greece was permitted to make when it was granted permission to intervene, such that Greece's intervention was limited to certain decisions of Greek courts which were declared by Italian courts to be enforceable in Italy. Greece filed a written statement, on which the Parties were entitled to provide their comments, and made oral observations as part of the proceedings on the merits.

Now I turn to the procedure for intervention under Article 63 of the Statute. That provision gives a third State a right to intervene in a case whenever the construction of a convention to which it is a party is in question. A state wishing to avail itself of that right must file a declaration of intervention with the Registry. The parties to the case are then given an opportunity to comment on the admissibility of such a declaration and it is then for the Court to take a decision on this point after hearing from the State seeking to intervene and the parties.

The limited object of an intervention under Article 63 is to allow a third State that is not party to the proceedings, but is a party to the convention whose construction is in question in those proceedings, to present to the Court its observations on the construction of that convention. Pursuant to Article 86 of the Rules of Court, the intervening State is entitled to submit its written observations and to present, in the course of the hearing, oral observations with respect to the subject-matter of the intervention. If a State exercises its right to intervene under Article 63, the construction of the convention concerned that is ultimately given by the judgment will be equally binding upon it.

Intervention under Article 63 of the Statute occurred most recently in the case concerning *Whaling in the Antarctic* brought by Australia against Japan. New Zealand, like Australia and Japan, was a party to the International Convention for the Regulation of Whaling and sought to intervene with respect to the construction of certain provisions of that Convention. After the Court found the declaration admissible, New Zealand was authorized to file written observations, on which the Parties could in turn provide comments. New Zealand also made oral observations as part of the proceedings on the merits.

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Mr. President,

Before concluding my report, I would like to update the Assembly on two matters of note.

I would first like to inform you about the progress made with respect to the Trust Fund for the Court's Judicial Fellowship Programme. Since 1999, this Programme has enabled interested universities to nominate recent law graduates to pursue their training in a professional context at the Court. The Court normally accepts up to 15 Judicial Fellows per year, each of whom is assigned to assist a Member of the Court for a period of about ten months. Until this year, fellows could only be accepted if the sponsoring university funded their participation. Although some participants have

been nationals of developing countries, many universities in those countries were not in a position to fund participation.

As you are aware, last year, a Trust Fund administered by the Secretary-General was established under General Assembly resolution 75/129. The creation of the Trust Fund, which is open for contributions by States, international organizations and other entities, was motivated by a desire to increase the participation of aspiring international lawyers who are nationals of developing countries and who are sponsored by universities located in developing countries. Under this initiative, the Trust Fund — rather than the relevant nominating university — provides funding to a number of selected candidates.

Thanks to the generous contributions received to date, I am delighted to inform you that the Trust Fund has gotten off to a promising start. Three of the 15 Judicial Fellows who joined the Court last month as part of the 2022-2023 cohort were nominated by universities located in developing countries and selected to be sponsored by the Trust Fund. The Court is optimistic that the newly established Trust Fund will expand the opportunities for young lawyers from all regions to gain professional experience in international law through their participation in the work of the Court.

I shall also mention that interest in the Judicial Fellowship programme as a whole has significantly increased in the most recent application period. In the past, the Court typically received a number of applications only slightly in excess of the 15 positions available under the programme each year. For the current year, the number of institutions that proposed to fund their candidates grew to 35, and 71 additional institutions submitted candidates for whom they sought funding from the Trust Fund. Members of the Court are of course delighted at the continued success of the Programme, which reflects great interest in the ICJ's work among the younger generation of graduates in international law.

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Mr. President,
Excellencies,
Distinguished Delegates,

I would also like to touch on the planned renovation of the Peace Palace in The Hague, a landmark building which has housed the Court and its predecessor, the Permanent Court of International Justice, for over a century.

For some years, the Government of the Netherlands has made known its intention to renovate the Peace Palace, with a view to carrying out necessary repairs and modernization work, as well as to remove asbestos from certain parts of the building. The Court had been informed that the works envisaged would likely last for several years and would require the occupants of the Peace Palace to be fully or partially relocated to other premises for an extended period. In my speech before the General Assembly last year, I had mentioned that the scope, modalities and schedule of the works and its impact on the Court's activities remained to be clarified. The Court had been actively planning for this project, which would inevitably have a large impact on our functions.

In July of this year, the Court was informed that the host country is now considering a different, more limited approach. The Dutch Ministry of Foreign Affairs has indicated that the current plan involves preparatory investigation and a thorough asbestos survey to be conducted in the summer of 2023, followed by consultations with the Court with a view to locating the areas where asbestos is present and taking appropriate action to resolve the problem.

The Court is grateful to the host country for its efforts to explore alternative options for the renovation of the Peace Palace, and has reiterated that any measures envisaged should guarantee a safe working environment for the Court's judges and staff and ensure the continuity of its judicial business. The Court trusts that the host country will soon engage in constructive consultations with the ICJ in implementing its plan of action and will endeavour to limit, to the extent possible, the impact that it may have on the Court's judicial activities.

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Mr. President,
Excellencies,
Distinguished Delegates,

That concludes my remarks. I thank you for giving me this opportunity to address you today, and I wish this seventy-seventh session of the General Assembly every success.
