

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

CASE CONCERNING APPLICATION
OF THE INTERNATIONAL CONVENTION
ON THE ELIMINATION OF ALL FORMS
OF RACIAL DISCRIMINATION

(GEORGIA *v.* RUSSIAN FEDERATION)

PRELIMINARY OBJECTIONS

JUDGMENT OF 1 APRIL 2011

2011

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE RELATIVE À L'APPLICATION
DE LA CONVENTION INTERNATIONALE
SUR L'ÉLIMINATION DE TOUTES LES FORMES
DE DISCRIMINATION RACIALE

(GÉORGIE *c.* FÉDÉRATION DE RUSSIE)

EXCEPTIONS PRÉLIMINAIRES

ARRÊT DU 1^{er} AVRIL 2011

consequently, Georgia and the Russian Federation did not engage in negotiations with respect to the latter's compliance with its substantive obligations under CERD.

183. The Court has already observed (see paragraph 149) the fact that Georgia did not claim that, prior to the seisin of the Court, it used or attempted to use the other mode of dispute resolution contained at Article 22, namely the procedures expressly provided for in CERD. Considering the Court's conclusion, at paragraph 141, that under Article 22 of CERD, negotiations and the procedures expressly provided for in CERD constitute preconditions to the exercise of its jurisdiction, and considering the factual finding that neither of these two modes of dispute settlement was attempted by Georgia, the Court does not need to examine whether the two preconditions are cumulative or alternative.

184. The Court accordingly concludes that neither requirement contained in Article 22 has been satisfied. Article 22 of CERD thus cannot serve to found the Court's jurisdiction in the present case. The second preliminary objection of the Russian Federation is therefore upheld.

IV. THIRD AND FOURTH PRELIMINARY OBJECTIONS

185. Having upheld the second preliminary objection of the Russian Federation, the Court finds that it is required neither to consider nor to rule on the other objections to its jurisdiction raised by the Respondent and that the case cannot proceed to the merits phase.

* * *

186. The Court in its Order of 15 October 2008 indicated certain provisional measures. This Order ceases to be operative upon the delivery of this Judgment. The Parties are under a duty to comply with their obligations under CERD, of which they were reminded in that Order.

* * *

187. For these reasons,

THE COURT,

(1) (a) By twelve votes to four,

Rejects the first preliminary objection raised by the Russian Federation;

IN FAVOUR: *President* Owada; *Judges* Al-Khasawneh, Simma, Abraham, Keith, Sepúlveda-Amor, Bennouna, Cançado Trindade, Yusuf, Greenwood, Donoghue; *Judge ad hoc* Gaja;

AGAINST: *Vice-President* Tomka; *Judges* Koroma, Skotnikov, Xue;