

Letter to the President of the House of Representatives from the Minister of Foreign Affairs David van Weel containing the government's response to the advisory report by the Advisory Committee on Issues of Public International Law entitled 'International legal issues surrounding the characterisation of the Holodomor as genocide'

[Translation of the official government response in Dutch ('[Kabinetsreactie op CAVV-advies nr. 42: Internationaalrechtelijke vraagstukken rond de kwalificatie van de Holodomor als genocide](#)'), published on September 25, 2025.]

Introduction

On 28 June 2023, the Advisory Committee on Issues of Public International Law (CAVV) issued an advisory report to the House of Representatives concerning 'International legal issues surrounding the characterisation of the Holodomor as genocide'. On 28 March 2023, the House had asked the CAVV to provide advice on considerations surrounding the determination of whether or not to recognise the Holodomor as genocide. On 31 July 2023, the Permanent Parliamentary Committee on Foreign Affairs requested that I provide the government's response to the CAVV's advisory report. That response is set out below, following a summary of the advisory report.

CAVV advisory report

The CAVV notes at the outset that its advisory report does not examine whether the man-made famine of 1932-1933 (the Holodomor) can be qualified as genocide, since the CAVV has no fact-finding mandate.

The report first deals with the definition of genocide, as well as that of crimes against humanity. The term 'genocide' refers to acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. The term 'crimes against humanity' refers to crimes committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. The CAVV points out that genocide and crimes against humanity are closely related in terms of the development of the law and by their nature. There is also a degree of overlap in terms of substance.

It then examines whether, from a legal perspective, the term 'genocide' can be applied to the Holodomor, as the Genocide Convention was adopted in 1948 and does not have retroactive effect. The CAVV notes that for such a qualification to be possible, it needs to be proved that genocide was already explicitly prohibited under (unwritten) customary international law at the time of the Holodomor. After examining sources that claim that this is indeed the case, the CAVV is uncertain, however, whether it can be concluded from these references that genocide already constituted a punishable crime under international law before 1948. In the CAVV's view, prior to the adoption of the Genocide Convention, genocide was not recognised as an international crime as such. With regard to the term 'crimes against humanity', the CAVV concludes that, although this term existed, it was still very much evolving as a crime under international law.

In the CAVV's view, 'the House of Representatives could argue that the Holodomor can be regarded as genocide *by contemporary standards*, in so far as it was committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.' An acknowledgement of this kind by the House of Representatives would not have any legal consequences, as genocide was not yet an international crime in 1932-1933. The CAVV also cites other options for how the House of Representatives could characterise the Holodomor, such as using the term 'crimes against humanity', in so far as the Holodomor was committed as part of a widespread or systematic attack directed against a civilian population. Furthermore, the more general term 'serious human rights violations' could be used, although international human rights protection likewise did not emerge until after 1945. Lastly, the CAVV suggests that the House could also refrain entirely from using legal terminology, which is not uncommon in the international context. The House could then, for example, acknowledge or commemorate 'the large-scale famine in Ukraine created by a totalitarian government and the untold atrocities

committed in that context' while also expressing sympathy for the victims and contributing to international awareness of the Holodomor, with a view to preventing similar tragedies.

In the final part of the report, the CAVV discusses possible international procedures for investigating the Holodomor, noting that, where historical events are concerned, efforts to uncover the truth and determine the facts are hampered by the fact that both suspects and potential witnesses are no longer available to shed light on relevant events. In the CAVV's view, these complications could be overcome by conducting detailed legal and historical research. With this in mind, the CAVV explores the establishment of a commission of inquiry and concludes by suggesting that the Netherlands, working together with a number of like-minded countries, could push for the establishment of a commission to study the facts of the Holodomor and determine its legal character. It also notes, however, that it is by no means certain that such an initiative would attract sufficient support within the United Nations (UN). The CAVV is of the opinion that the Council of Europe may provide more opportunities in this area, but that body does not normally occupy itself with facts and events that occurred before its foundation. Nor would recourse to the European Court of Human Rights offer greater promise. The CAVV also raises the option of asking the International Court of Justice (ICJ) to determine Russia's responsibility for the Holodomor. However, it doubts whether the ICJ would accept a case relating to the Holodomor. In the CAVV's view it seems more likely that, in the absence of a specific provision in the Genocide Convention on retroactive effect, the ICJ would determine that it lacks jurisdiction on this issue.

Government response

The government has studied with interest the CAVV's advisory report to the House of Representatives on considerations surrounding the determination of whether or not to recognise a historical event, such as the Holodomor, as genocide. The report will contribute significantly to thinking about how historical events should be characterised.

Both genocide and crimes against humanity are extremely serious international crimes, with specific evidentiary requirements. The government endorses the CAVV's finding that genocide and crimes against humanity were not yet recognised as international crimes at the time of the Holodomor. Where the CAVV suggests that the House of Representatives could take the position that the Holodomor can be regarded as genocide (or a crime against humanity) *by contemporary standards*, the government would explicitly refer to the condition stated by the CAVV in this regard, namely 'in so far as [the Holodomor] actually meets the criteria of such crimes'. In the case of genocide, it must be established that crimes were committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such. In the case of crimes against humanity, the crimes in question must have been committed as part of a widespread or systematic attack directed against the civilian population.

Given the difficulty of proving such historical crimes *by contemporary standards*, the government endorses the CAVV's suggestion that the House, rather than opting for the terms 'genocide' or 'crimes against humanity', instead use the term 'serious human rights violations' or even a non-legal term such as 'untold atrocities' in recognising the Holodomor. This approach would emphasise the most important aspects when it comes to historical events of this kind: recognising the suffering that occurred, expressing sympathy for the victims and working to prevent any recurrence of such suffering in the future. The government would further note that this approach is in keeping with the customary restraint exercised by the government in qualifying events – historical or contemporary – as genocide.

The government concurs with the CAVV's analysis that international procedures relating to the Holodomor are unlikely to succeed. With regard to the CAVV's suggestion that the Netherlands, working together with a number of like-minded countries, could push for the establishment of a commission to study the historical facts of the Holodomor and determine its legal character, the government shares the Committee's doubts about the feasibility of creating such a commission at UN or Council of Europe level.

Regardless of what specific or legal terminology should be used, the government fully acknowledges the gravity and magnitude of the Holodomor, and will support the Ukrainian government as appropriate. This tragedy calls for deep sympathy for the victims of this appalling famine and acknowledging the immense suffering inflicted on them at that time.