

COUR INTERNATIONALE  
DE JUSTICE



INTERNATIONAL COURT  
OF JUSTICE



THE INTERNATIONAL COURT OF JUSTICE

# History and role of the Court

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The International Court of Justice is the principal judicial organ of the United Nations. Its seat is at the Peace Palace in The Hague (Netherlands). It began work in 1946, when it replaced the Permanent Court of International Justice which had functioned in the Peace Palace since 1922.



*The Peace Palace in The Hague, the seat of the Court*

It operates under a Statute largely similar to that of its predecessor, which is an integral part of the Charter of the United Nations.

## **The Court has a dual role:**

- **to settle, in accordance with international law the legal disputes submitted to it by States** (contentious function);
- **to give advisory opinions on legal questions referred to it by duly authorized UN organs and agencies** (advisory function).

## **Sources of applicable law:**

The Court decides in accordance with international treaties and conventions in force, international custom, the general principles of law and, as subsidiary means, judicial decisions and the teachings of the most highly qualified publicists.

# Proceedings

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## Contentious cases:

Only States may be Parties in contentious proceedings before the Court.

The Court is competent to entertain a dispute only if the States concerned have accepted its jurisdiction in one or more of the following ways:

- by the conclusion between them of a special agreement to submit the dispute to the Court;
- by virtue of a jurisdictional clause, i.e. typically, when they are parties to a treaty containing a provision whereby, in the event of a disagreement over its interpretation or application, one of them may refer the dispute to the Court. Over 300 treaties or conventions contain a clause to such effect;
- through the reciprocal effect of declarations made by them under the Statute whereby each has accepted the jurisdiction of the Court as compulsory in the event of a dispute with another State having made a similar declaration. The declarations of 73 States are at present in force, a number of them having been made subject to the exclusion of certain categories of dispute;
- if a State has not recognized the jurisdiction of the Court at the time when an application instituting proceedings is filed against it, that State has the possibility of accepting such jurisdiction subsequently to enable the Court to entertain the case: the Court thus has jurisdiction as of the date of acceptance in virtue of the rule of *forum prorogatum*.

In cases of doubt as to whether the Court has jurisdiction, it is the Court itself which decides.

The procedure followed by the Court in contentious cases is defined in its Statute, and in the Rules of Court adopted under the Statute. The Rules date from 1978 and certain provisions have since been amended (the latest amendment entered into force on 25 June 2020). The proceedings include a written phase, in which the parties file and exchange pleadings, and an oral phase consisting of public hearings at which agents and counsels address the Court. As the Court has two official languages (English and French) everything written or said in one language is translated into the other.

After the oral proceedings the Court deliberates *in camera* and then delivers its judgment at a public sitting. The judgment is final and without appeal. Should one of the States involved fail to comply with it, the other party may have recourse to the Security Council of the United Nations. The Court discharges its duties as a full court but, at the request of the parties, it may also establish *ad hoc* chambers to deal with particular cases (six cases have been dealt with by such chambers since 1946).

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A Chamber of Summary Procedure is further elected every year by the Court in accordance with its Statute. Since 1946 the Court has delivered 141 Judgments on disputes concerning, *inter alia*, land frontiers, maritime boundaries, territorial sovereignty, the non-use of force, violation of international humanitarian law, non-interference in the internal affairs of States, diplomatic relations, hostage taking, the right of asylum, nationality, guardianship, rights of passage and economic rights.

### **Advisory opinions:**

The advisory procedure of the Court is open solely to international organizations. The only bodies at present authorized to request advisory opinions of the Court are five organs of the United Nations and 16 agencies of the United Nations family.

On receiving a request, the Court decides which States and organizations might provide useful information and gives them an opportunity of presenting written or oral statements. The Court's advisory procedure is otherwise modelled on that for contentious proceedings, and the sources of applicable law are the same. In principle the Court's advisory opinions are consultative in character and are therefore not binding as such on the requesting bodies. Certain instruments or regulations can, however, provide in advance that the advisory opinion shall be binding.

Since 1946 the Court has given 28 Advisory Opinions, concerning *inter alia* the accordance with international law of the unilateral declaration of independence in respect of Kosovo, legal consequences of the construction of a wall in the occupied Palestinian territory, admission to United Nations membership, reparation for injuries suffered in the service of the United Nations, territorial status of South West Africa (Namibia) and Western Sahara, judgments rendered by international administrative tribunals, expenses of certain United Nations operations, applicability of the United Nations Headquarters Agreement, the status of human rights rapporteurs, and the legality of the threat or use of nuclear weapons.

### **Incidental proceedings:**

As in any court, incidental proceedings may arise during a case before the Court, suspending or modifying the course of the main proceedings. The parties, the Court itself or third parties may raise questions and objections, or submit claims on which the Court must decide in so-called incidental proceedings, which are separate from the proceedings on the merits of the case. The most common incidental proceedings are preliminary objections, applications for the indication of provisional measures, counter-claims and applications for permission to intervene.

# Composition

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The Court is composed of 15 judges elected to nine-year terms of office by the United Nations General Assembly and Security Council sitting independently of each other. It may not include more than one judge of any nationality. Elections are held every three years for one-third of the seats, and retiring judges may be re-elected. The Members of the Court do not represent their governments but are independent magistrates.

The judges must possess the qualifications required in their respective countries for appointment to the highest judicial offices, or be jurists of recognized competence in international law. The composition of the Court has also to reflect the main forms of civilization and the principal legal systems of the world.

When the Court does not include a judge possessing the nationality of a State party to a case, that State may appoint a person to sit as a judge *ad hoc* for the purpose of the case.

The Court has its own secretariat, the **Registry**, which acts both as a service helping in the administration of justice and as the secretariat of an international organization. It is headed by the Registrar, who is elected by the Court for a term of seven years and may be re-elected.

## Current Members of the Court

### President

Joan E. DONOGHUE, United States of America

### Vice-President

Kirill GEVORGIAN, Russian Federation

### Judges

Peter TOMKA, Slovakia

Ronny ABRAHAM, France

Mohamed BENNOUNA, Morocco

Abdulqawi Ahmed YUSUF, Somalia

XUE Hanqin, China

Julia SEBUTINDE, Uganda

Dalveer BHANDARI, India

Patrick Lipton ROBINSON, Jamaica

Nawaf SALAM, Lebanon

IWASAWA Yuji, Japan

Georg NOLTE, Germany

Hilary CHARLESWORTH, Australia

## Registrar

Philippe GAUTIER, Belgium

## Pending cases before the Court (order by date of introduction)

1. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*
2. *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia)*
3. *Dispute over the Status and Use of the Waters of the Silala (Chile v. Bolivia)*
4. *Certain Iranian Assets (Islamic Republic of Iran v. United States of America)*
5. *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*
6. *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*
7. *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*
8. *Relocation of the United States Embassy to Jerusalem (Palestine v. United States of America)*
9. *Guatemala's Territorial, Insular and Maritime Claim (Guatemala/Belize)*
10. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*
11. *Land and Maritime Delimitation and Sovereignty over Islands (Gabon/Equatorial Guinea)*
12. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*
13. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia)*
14. *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*
15. *Questions of Jurisdictional Immunities of the State and Measures of Constraint against State-Owned Property (Germany v. Italy)*





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