



Statute of the International Islamic Court of Justice

ARTICLE 1

The International Islamic Court of Justice is the principal judicial organ of the Organization of Islamic Cooperation. It shall be based on Islamic Shari'ah and shall function independently, in accordance with the provisions of the Charter of the Organization of the Islamic Cooperation and of the present Statute.

ARTICLE 2

- (a) The seat of the Court shall be established at the City of Kuwait.
- (b) The Court may, when necessary, sit and exercise its functions in any Member State of the Organisation of Islamic Cooperation.

FORMATION AND MEMBERSHIP OF THE COURT

ARTICLE 3

- (a) The Court shall be composed of seven judges who shall be elected by the Council of Foreign Ministers for four years and may be re-elected for another term only. The Court shall elect its President and Vice-President from among its members.
- (b) No two members may be nationals of the same Member State.
- (c) A person who for the purposes of membership of the Court could be regarded as a national of more than one Member State shall be deemed to be a national of the one in which he exercises civil and political rights.

ARTICLE 4

To be eligible for membership of the Court, a candidate must be a Muslim of high moral character, and a national of one of the Member States of the Organization provided that he is at least forty years of age, a Shariah jurist of recognized competence and experienced in international law and possesses the qualification required in his own country for appointment to the highest Ifta or judicial offices.

ARTICLE 5

The members of the Court shall be elected through secret ballot by the Council of Foreign Ministers from a list of nominees in accordance with the following provisions:

- (a) The Secretary General of the Organization of Islamic Cooperation shall address a written request to the Member States of the Organization fixing the date for the elections at least three months in advance and inviting them to

submit within two months, the nominations of persons who meet the conditions prescribed by Article 4 of the present Statute.

- (b) No Member States of the Organization may nominate more than three persons, of whom one may be of its own nationals.
- (c) The Secretary General shall prepare a list in alphabetical order of all the persons thus nominated and shall submit it to the Council of Foreign Ministers, as a preliminary step for the election of the Court members at the appointed time.
- (d) The Council of Foreign Ministers shall hold a session to elect the Court members, and those candidates who obtain an absolute majority of the votes of all member states of the Organization shall be considered as elected:
In the event of more than one national of the same State obtaining an absolute majority of the votes; the eldest of them only shall be considered as elected.
- (e) When electing the President and the members of the Court, the Council of Foreign Ministers shall take into consideration the regional distribution and the language representation of the member states.
- (f) If, after the first voting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third vote shall take place; if any seat still remain unfilled, the Council of Foreign Ministers shall draw lots to select the remaining member from among the candidates who will have obtained the majority of votes.

ARTICLE 6

- (a) In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court. If the President wishes to resign, his resignation shall be addressed to the Council of Foreign Ministers, through the Secretary General. The vice-President shall replace the President temporarily pending the election of a new President by the Court.
- (b) No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions. In this case, the Court can only make a ruling after hearing the member involved and taking cognizance of his remarks in a closed session. The Court's decision shall be final.
- (c) The resignation or dismissal of the President or any member of the Court shall be formally notified to the Secretary General by the Registrar of the Court. This notification makes the place vacant.

ARTICLE 7

- (a) Vacancies, whatever their causes, shall be filled by the same method as laid down in Article 5.
- (b) A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

OBLIGATIONS OF THE MEMBERS OF THE COURT

ARTICLE 8

No member of the Court may:

- (a) Exercise any political or administrative function or engage in any other occupation or perform any activity that may be incompatible with the dignity and independence of the Judicial office.
- (b) Act as counsel, agent, advocate, or arbitrator in any case or engage in any other work of a professional nature that may conflict with his membership of the Court.
- (c) Participate in the decision of any case in which he has previously taken part as a member of a national or international court or of a commission enquiry or in any other capacity.

Any doubt on this point shall be settled by the decision of the Court.

ARTICLE 9

Every member of the Court shall, at the first session in open Court after this election, take the following oath:

“In the Name of God Almighty, I swear to fear only God in the discharge of my duties, to act impartially in accordance with the provisions of Islamic Shariah and the principles of Islam and to abide by the provisions of this Statute and those of the Charter of the Organisation of Islamic Cooperation”.

IMMUNITIES AND PRIVILEGES

ARTICLE 10

- (a) The International Islamic Court of Justice, its members and personnel shall enjoy in the countries of Member States the immunities and privileges prescribed by the 1976 Agreement on Immunities and Privileges of the Organisation of Islamic Cooperation.

(b) The Secretary General of the Islamic Cooperation shall conclude with the headquarters country an agreement regulating the relationship between the Court and the said country, taking into consideration the international rules of immunities and privileges.

ARTICLE 11

(a) The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

(b) The President of the Court, its Registrar and its personnel shall reside at the seat of the Court.

ARTICLE 12

(a) The Court shall remain permanently in session except during the judicial vacations.

(b) The dates and duration of such vacations shall be fixed by the Court.

(c) Members of the Court are entitled to periodic leave the dates and duration of which shall be fixed by the President of the Court.

(d) Member of the Court shall be bound, unless they are on official leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

ARTICLE 13

The full court shall sit except when it is expressly provided otherwise in the present Statute, subject to the condition that the number of judges available to render the judgments is not less than five.

Article 14

a. If, for some special reasons, a member of the court considers that he should not take part in the decision of a particular case, he may withdraw after the approval of the President.

b. if the President considers that, for some special reasons, one of the member of the court should not sit in a particular case, he shall give him notice accordingly and the judge concerned shall not sit in the case.

c. if, in any such case the member of the court and the President disagree, the matter shall be settled by the decision of the court.

CHAMBERS

ARTICLE 15

- (a) The Court may form one or more chambers composed of three or more judges for dealing with particular categories of cases.
- (b) The Court may form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.
- (c) The Court may form annually a chamber composed of three judges which, at the request of the parties, may hear and determine cases by summary procedure.

ARTICLE 16

- (a) States parties to a case at the Court shall have the right to have judges to sit in the case before the court and take part in the decision on terms of complete equality with their colleagues.
- (b) If the Court include upon the Bench judges of the nationalities of the parties, such judges shall sit in full court. If the Court includes upon the Bench no judges of the nationalities of the parties each party may proceed to choose a judge from among the nationals of member States subject to the requirements for membership of the Court.
- (c) Should there be several parties, in the dispute, in the same interest, they shall, for the purpose of the preceding two paragraphs, be reckoned as one party only. Any dispute upon this point shall be settled by the decision of the Court.

SALARIES AND OTHER EXPENSES OF THE COURT

ARTICLE 17

- (a) Each member of the Court shall receive an annual salary and the President and Vice-President shall receive special annual allowances.
- (b) Adhoc judges shall receive, in addition to travel costs, compensation for each day they spend in the headquarters country while taking part in the Court proceedings.
- (c) Salaries and allowances prescribed in para (a) shall be fixed by the Council of Foreign Ministers which shall also lay down the conditions under which retirement pensions and travelling expenses may be given and frame the financial regulations of the Court.

(d) The salaries, allowances and compensations prescribed in paragraphs (a) and (b) shall be free of all taxation in the headquarters country and in all Member States of the Organization of Islamic Cooperation.

ARTICLE 18

The Court shall have its autonomous budget and the expenses of the Court shall be borne by the Member States of the Organization of Islamic Cooperation in proportion to their respective contributions to the budget of the Organization.

RULES OF PROCEDURE

ARTICLE 19

(a) The Court shall lay down its own rules of procedure.

(b) The Rules of Procedure may provide for experts to sit with the Court without the right to vote.

REGISTRAR AND OTHER STAFF OF THE COURT

ARTICLE 20

(a) The Court shall be assisted, during its session, by a Registrar who shall prepare the minutes and sign them along with the President.

(b) The Rules of Procedure shall comprise provisions for the selection and appointment of the Registrar, the text of the oath he shall take as he assumes his functions, provisions for the appointment of an Assistant Registrar and other officers of the Court as well as the administrative rules and procedures of the court.

COMPETENCE OF THE COURT

ARTICLE 21

(a) Member States of the Organization of Islamic Cooperation alone have the right to appear before the Court.

(b) Any other States may refer to the Court cases to which they are parties under the conditions to be laid down by the Council of Foreign Ministers provided that such states shall accept the competence of the Court and declare their prior commitment to abide by the decisions of the court. In such cases, the Court shall fix the amount which these parties are to contribute towards the expenses of the Court.

ARTICLE 22

- (a) The Court, subject to, and in conformity with the present Statute, may request of international organizations information it deems relevant to cases before it, and shall receive the information presented by such organizations on their own initiative.
- (b) Whenever the construction of a constituent instrument of an international organization or of an International Convention adopted thereunder is in question in a case before the Court, the Registrar of the Court shall so notify the international organization concerned and shall communicate to it copies of all the written proceedings.

INTERVENTIONS

ARTICLE 23

- (a) Should a Member State of the Organization of Islamic Cooperation consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.
- (b) If the Country is not a member of the Organization of Islamic Cooperation , it shall be required to declare beforehand its commitment to abide by the judgments of the Court, provided that the parties to the case do not oppose such an intervention.
- (c) It shall be for the Court to decide upon the request in the two cases.

ARTICLE 24

Whenever the construction of an international convention is in question in the case before the Court, the Registrar shall forthwith notify all the member states of the Organisation of Islamic Cooperation signatory to such a convention, and every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgement will be equally binding upon it.

JURISDICTION OF THE COURT

ARTICLE 25

The jurisdiction of the Court shall comprise:

- (a) Cases which the concerned Member States of the Organization of Islamic Cooperation agree to refer to it.
- (b) Cases whose referral to the Court is provided for in any treaties or conventions in force.

- (c) The interpretation of a bilateral or a multilateral treaty.
- (d) Any question of international law.
- (e) The existence of any fact which, if established, would constitute a breach of international obligation.
- (f) The nature or extent of the reparation to be made for the breach of an international obligation.

ARTICLE 26

(a) Member States of the Organization may declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes, *inter alia*, the interpretation of Islamic Shariah principles, the construction of treaties and the question of international law.

The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of one or several States, or for a certain time.

Such declarations shall be deposited with the Secretary General of the Organization of Islamic Cooperation who shall transmit copies thereof to the Registrar of the Court and to all Member States of the Organization.

- (b) In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

APPLICABLE LAW

ARTICLE 27

- (a) Islamic Shariah shall be the main source on which the International Islamic Court of Justice shall base its cases.
- (b) The Court shall be guided by international law, bilateral or multilateral conventions, international practice accepted as law, general principles of law, judgments rendered by international courts and the teachings of the most highly qualified publicists of the various States.

LANGUAGES OF THE COURT

ARTICLE 28

- (a) Arabic, as the language of the Holy Quran shall be the first official language of the Court, along with English and French.

- (b) The Court may, at the request of one of the parties, authorize a non-official language to be used, provided that such a party shall pay the expenses of translation or interpretation into one of the official languages.
- (c) The decision of the Court shall be given in the three official languages.

PROCEDURE OF LEGAL ACTION

ARTICLE 29

- (a) Cases may be brought before the Court, as the case may be, either by a written application from one Member State to the Registrar of the Court or by the notification, to the Registrar, of a special agreement between two or more States, to bring their dispute before the Court.

In either case, the subject of the dispute and the parties must be indicated together with the presentation of the standpoints on which the case is based, all the supporting statements and documentary evidence and the signatures of the legal agents of the parties or their diplomatic representatives in the country of Seat of the Court.

- (b) The Registrar shall forthwith communicate the application or the agreement to all concerned and notify all the other Member States of the Organisation of Islamic Cooperation through the Secretary General.

PROCEDURE OF HEARING

ARTICLE 30

The procedure of the International Islamic Court of Justice shall consist of two parts: written and oral.

A. Written Procedures

The written proceedings shall consist of the communication to the Court and to the parties memorials, counter-memorials and replies; also all papers and documents in support. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

A certified copy of every document produced by one party shall be communicated to the other party and the said document may be withdrawn except with written permission of the President and after a certified copy of the document in question has been kept in the case file.

B. Oral Procedures

The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel and advocates.

JUDICIAL NOTICES

ARTICLE 31

- (a) For the service of all notices upon persons other than the agents, counsel and advocates, the Court shall apply direct to the Government of the State upon whose territory the notice has to be served.
- (b) The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

CONDUCT OF THE CASE AND TAKING OF EVIDENCE

ARTICLE 32

- (a) In accordance with the present Statute, the Court shall make orders for the conduct of the case, decide the form and time in which each party must conclude its arguments and make all arrangements connected with taking of evidence.
- (b) The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.
- (c) The Court may at any time entrust any individual, body, bureau, commission or other organization it may select with the task of carrying out an enquiry or giving an expert opinion.
- (d) During the hearing, any relevant questions may be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure.
- (e) After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side gives its consent.
- (f) The Defendant State may submit a counterclaim against the claimant State in the first memorial to be presented by the defendant State in response to the initial claim. Acceptance of the counterclaim by the Court shall be subject to the said counterclaim being directly related to the initial claim and coming within the jurisdiction of the Court.
- (g) The Claimant State may withdraw its claim at any stage of the Court proceedings before the sitting at which the judgment is to be pronounced. It shall be for the Court to decide upon such withdrawal.

Articles 33

(a). The Court may decide, until the case is decided upon, to take any temporary measure it deems necessary to preserve the right of one of the parties whenever it determines that the circumstances so warrant.

(b). The Court shall decide not to take any temporary measure before providing the other parties with an opportunity to present their observations thereon, and shall notify all parties of the case upon issuance of the decision.

(c) The Court may postpone or revoke a temporary measure if the circumstances that necessitated it change, taking into account the provisions of the paragraph above.

REPRESENTATION OF THE PARTIES

Article 34

A) The parties to the dispute shall be represented before the Court by accredited agents, and such parties may seek the assistance of counsellors or lawyers.

B). Agents of the parties to the conflict before a Court, counsellors and lawyers shall enjoy the immunities and privileges necessary to perform the tasks assigned to them.

FAILURE TO APPEAR BEFORE THE COURT

ARTICLE 35

Whenever one of the parties does not appear before the Court, the other party may call upon the Court to proceed with the case. The Court must, before doing so, satisfy itself that it has jurisdiction and that the claim is well founded in fact and law.

CONDUCT OF THE HEARING

ARTICLE 36

(a) The hearing shall be made under the control of the President or if he is unable, to be presided by the Vice-President. If neither is able to preside, the Senior judge shall preside.

(b) The hearing in Court shall be public, unless the Court shall decide otherwise; the parties to the dispute may request that the public be not admitted.

- (c) Minutes shall be made of each hearing and signed by the Registrar and the President of the Court.
- (d) These minutes alone shall be authentic.

DELIVERING OF JUDGMENTS

ARTICLE 37

- (a) When the agents, counsel and advocates have completed their presentation of the case, the President shall declare the hearing closed.
- (b) The Court shall withdraw to consider the judgment and the deliberations of the Court shall take place in private and remain secret.
- (c) All questions shall be decided by a majority of the judges present. The President shall have a casting vote.
- (d) The judgment shall state the reason on which it is based and shall contain the names of the judges who have taken part in the decision.
- (e) If the judgment does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to register a separate opinion.
- (f) The judgment shall be signed by the President and by the Registrar. It shall be read in open Court; due notice having been given to the agents.

BINDING FORCE OF THE JUDGMENT

ARTICLE 38

The decision of the Court has no binding force except between the parties and in respect of that particular case.

FINALITY AND CONSTRUCTION OF THE JUDGMENT

ARTICLE 39

- (a) The judgment is final and must not be challenged.
- (b) In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.
- (c) In the event of refusal by any party to execute the judgment, the matter shall be referred to the Council of Foreign Ministers.

REVISION OF A JUDGMENT

ARTICLE 40

- (a) An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.
- (b) The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision and declaring the application admissible on this ground.
- (c) The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.
- (d) The application for revision must be made, at the latest, within six months of the discovery of the new fact.
- (e) No application for revision may be made after the lapse of ten years from the date of the judgment.

COSTS

ARTICLE 41

Unless otherwise decided by the Court, each party shall bear its own costs.

ADVISORY OPINIONS

ARTICLE 42

The Court may give an advisory opinion on any legal question unrelated to a case before it, at the request of any organ that may be so authorized by the Council of Foreign Ministers.

ARTICLE 43

- (a) Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.
- (b) The Registrar shall forthwith give notice of the request for an advisory opinion to all Member States of the Organization, inform them that they may

furnish information on the question and that the Court will be prepared to also receive their statements at a public sitting to be held for the purpose.

- (c) The Court may request statements of any Member State of the Organization or any international body whose view it deems useful to the question. The Court shall address a special request direct to the State further notifying it that the Court will be prepared to hear any oral statement which the State or organization may desire to make.
- (d) Should any such State entitled to appear before the Court have failed to receive the special communication referred to in the preceding paragraph, such State may express a desire to submit a written statement or to be heard; and the Court will decide.
- (e) Once the written and oral statements have been presented to the Court, all the Member States of the Organization shall be permitted to comment on them in the form and within the time limits to be decided by the President of the Court, and the Registrar shall communicate copies of the comments to States having submitted such statements.

ARTICLE 44

- (a) The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary General and all the Member States of the Organisation of Islamic Cooperation and to the international organizations concerned.
- (b) The Registrar of the Court shall communicate copies of the advisory opinion thus delivered to the Secretary General and the Member States of the Organisation of Islamic Cooperation and the international organizations having presented statement on the requested advisory opinion.

ARTICLE 45

In delivering its advisory opinions, the Court may be guided in addition to the above, by such Articles of the present Statute as it may deem applicable.

ARTICLE 46

The Court may undertake through a Committee of eminent personalities or through its senior officials-mediation, conciliation, and arbitration in the differences arising between two or more of the Member States of the Organisation of Islamic Cooperation if the disputants so desire, or if it is so requested by the Islamic Summit or the Council of Foreign Ministers, by consensus.

PUBLICATION OF JUDGMENTS AND ADVISORY OPINIONS

ARTICLE 47

- (a) The Registrar shall compile the Court judgments, legal opinions and orders and publish them in successive collections.
- (b) The Court may instruct its Registrar to publish any other collections of orders, minutes and documents submitted to it.

AMENDMENTS TO THE STATUTE

ARTICLE 48

- (a) The provisions of Article 11¹ of the Charter shall be applicable to the amendments to the present Statute.
- (b) The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communication to the Secretary General for consideration in accordance with the preceding paragraphs.
- (c) The Secretary General shall submit any proposals for amendments to the present Statute to the Court for comments.

COMING INTO FORCE OF THE PRESENT STATUTE

ARTICLE 49

The present Statute shall come into force upon ratification thereof by two-third majority of Member States as provided for in Article 36 of the Charter.

ARTICLE 50

The present Statute has been written in the three official languages of the Organization, which are all equally authentic. In the event of differences as to its interpretation or application, the Arabic language shall prevail.

Done at the city of State of Kuwait day of 29 January 1987 (29 Jamad ul Oula, 1407H

¹ Now Article 36 in the amended Charter