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## [179] REGULATIONS OF THE CENTRAL AMERICAN COURT OF JUSTICE

The Central American Court of Justice, by virtue of the power given to it by Article XXVI of the convention concluded for its establishment by the Republics of Costa Rica, Guatemala, Honduras, Nicaragua and Salvador, at the City of Washington, on the twentieth day of December, one thousand, nine hundred and seven, has decided to adopt and does hereby adopt the following Regulations:

### Chapter First

#### Character and Organization of the Court

##### ARTICLE 1

The object of the Central American Court of Justice is to guarantee with its authority, based upon the honour of the States, and within the limits of the powers which have been granted to it, the rights of each of them in their reciprocal relations, and to maintain peace and harmony among them. It is, by its nature, by its attributions and by the character of its jurisdiction, a Permanent Court of International Justice, with power to adjudge and decide, upon petition, all the cases included in its constitutive law. For these purposes it is authorized to establish and manage an office for the transaction of its business and to look after the interests of the said office.

##### ARTICLE 2

The juridical personality of the court exists in the integrity of its membership, namely, by virtue of the participation of a judge for each one [180] of the Republics which it represents, and it, therefore, must in case of the absence of any of its members, arrange, without delay, that the respective State or States shall establish its or their representation.

##### ARTICLE 3

When, on account of death, resignation or disability, it shall be necessary to replace a judge, his place shall be taken by one of the alternates for the Republic whose representation has become vacant until a permanent successor shall enter upon the exercise of his duties. A similar provision shall apply if a judgeship should become vacant on account of desertion of the post.

If the vacancy should occur during leave of absence granted to the judge who ceases to occupy the post, the alternate, who would be filling the place during the leave of absence shall continue to do so during the time mentioned in the preceding paragraph.

In case of temporary absence or of the disqualification of a judge for a given case, one of his alternates shall likewise be called to discharge the duties pertaining to the office during the absence of the

said judge, or during the trial to which the excuse or challenge shall refer.

#### ARTICLE 4

Whenever for any reason the court shall disintegrate, the judges present shall be constituted into a permanent commission for the purpose of directing to whomever it may be proper the petitions tending to complete the legal quorum, and for the further purpose of attending to the official correspondence and to the administration of the office concerning everything which may be urgent and indispensable.

#### ARTICLE 5

The court may grant leave of absence to the judges, without salary and for a fixed period, provided the request is based upon a just cause, in the opinion of the court, and that the period of leave be not longer than six nor shorter than three months. In the case of the judge of the Republic where the court has its seat the minimum leave of absence shall be one month.

#### ARTICLE 6

Except in the case of absence for reasons which the court may consider valid, the judge who has obtained leave shall not quit his post until [181] the alternate called to substitute for him shall present himself before the court for such purpose.

During the lack of a quorum of the court which may occur in accordance with this article, a judge absent by virtue of a leave of absence, shall enjoy the salary appertaining to his office.

#### ARTICLE 7

Pending the substantiation of a suit, no leave of absence shall be granted to any judge, except on account of the grave sickness of himself, his ancestors, descendants, or wife, or for a cause equally important in the judgment of the court.

#### ARTICLE 8

Leave of absence may not be renounced, if the respective substitute should be already in the exercise of his functions, or if he should have already set out from his country with the purpose of filling the position; unless, in either case, the alternate should consent thereto and the travelling expenses incurred by him shall be paid into the treasury of the court.

#### ARTICLE 9

The travelling expenses of the alternate shall be paid by the court only when he is called because of leave of absence granted to the titular judge or the summons to him shall proceed from some decree issued during the pendency of a suit.

#### ARTICLE 10

Without prejudice to the provisions relating to leaves of absence for the judges in the discharge of their functions, the titular or alternate judges who may have to leave Central America shall so notify the court in advance and indicate their address and the probable length of their absence.

#### ARTICLE 11

If a magistrate should, as a matter of fact, desert his office, or if, having obtained a leave of absence, he should continue away for more than a month after the expiration of such leave of absence, without having first obtained an extension of the same, when such extension would be within the maximum fixed by Article 5, the court shall notify [182] the facts to the respective State, in order that it may consider its legal effects in accordance with the provisions of its internal public law.

#### ARTICLE 12

The appointment of a titular or alternate judge must be considered as an act of exclusive responsibility of the State which may make the same, and it legally implies the qualifications, ability, and all other requisites of the designated functionary for the exercise of the judgeship conferred.

#### ARTICLE 13

In conformity with Article XXVII of the convention, the court shall suspend its functions, if, for any cause whatsoever, the political composition of Central America should be altered so as to demand an increase or reduction in the number of judgeships representative of the States in the court, and the latter should declare that such an event had occurred.

#### ARTICLE 14

The court shall not be dissolved, nor suspend its functions, on account of non-compliance with its decisions or mandates, or on account of disregard of its powers or privileges. In such a case, it shall address to the respective government such observations as it may deem advisable, and if these should be ignored or disregarded, it shall notify the occurrence to the other governments.

## ARTICLE 15

The disintegration of the court as foreseen in Article 4, interrupts the substantiation of all pending suits, with suspension of the judicial terms or time limitations.

## CHAPTER SECOND

### Jurisdiction and Powers of the Court

## ARTICLE 16

The Central American Court of Justice does not, in the cases falling within its ordinary jurisdiction, have any more authority or attributions than those which are given to it by its own constitutive law; and from the time when a suit is filed, it possesses the power to fix its jurisdiction upon the main point at issue as upon all side issues which shall arise during the substantiation of the case, and to construe the treaties [183] and conventions and apply the principles of international law relative to the point or points in controversy.

## ARTICLE 17

The ordinary jurisdiction of the court includes:

1. All questions or controversies between the Central American States, whatever may be their source or nature, if the Foreign Offices concerned have failed to reach a settlement, whether this be shown by record of proceedings or by other effective documents, or by the fact of the parties being in a state of war;
2. Suits filed by a Central American against any of the contracting States, not his own, when such suits shall refer to a violation of the obligations of a treaty or convention, or to other questions of an international character, on condition that he shall have exhausted all the recourses afforded by the laws which the respective country may have provided in his behalf against the acts giving rise to the judicial action, or if a denial of justice is shown.
3. The power to fix, in accordance with Article XVIII of the convention, the position in which the contending parties shall remain during the pendency of the suit initiated between them, and in consequence, that of issuing such precautionary orders which it may deem necessary, as well as the power to modify, suspend or revoke them, according to the circumstances;
4. Cases of internal public law, embraced in the article annexed to the said convention, in respect to the States which included this clause in the legislative ratification of the pact.

#### ARTICLE 18

The ordinary jurisdiction shall be exercised in accordance with the forms and time limitations fixed by the Convention of Washington and with the complementary rules which the court shall establish in its Ordinance of Procedure.

#### ARTICLE 19

The extraordinary or compromisary jurisdiction embraces:

1. Questions not included in Section 2 of Article 17, which may arise between one of the Central American Governments and private persons, when submitted to the court by common consent;
2. Controversies of an international nature, between any of the Cen[184]tral American Governments and that of a foreign nation, which, by a convention concluded for that purpose, the parties may decide to examine and adjust before the court.

#### ARTICLE 20

In the cases mentioned in Section 1 of the next preceding article, the extent of the powers of the court, as well as the judicial procedure applicable, shall be those expressed by the agreement or *compromis* of the parties, and in the absence of any provisions to that effect, the same powers belonging to its ordinary jurisdiction shall be presumed to have been conferred upon the court for that particular litigation, following the procedure inherent in said ordinary jurisdiction.

#### ARTICLE 21

In the controversies referred to in Section 2 of Article 19, judicial intervention is optional with the court, and in such controversies it shall have no more powers, nor use other rules of procedure, than those prescribed in the special agreement or *compromis*.

#### ARTICLE 22

The jurisdiction of the court in each of the cases examined before it, ceases by virtue of the notification of the final judgment, without prejudice to the right of interpreting the sentence rendered, in accordance with Article XXIV of the convention.

## CHAPTER THIRD

### Disabilities, Challenges and Excuses

#### ARTICLE 23

The judges in office are obliged to form the legal quorum necessary for the decisions of the court, and they shall in no case abstain from the performance of such duty on account of dissent of opinion or for any other cause; nor shall they refuse to cast their vote upon the case in question.

#### ARTICLE 24

The following constitute causes of disability for the judges to take cognizance of the cases submitted to the jurisdiction of the court: [185]

1. To have, either personally or through their spouses, or ancestors, or descendants, or brothers and sisters by consanguinity or by affinity, a direct and personal interest in the controversy;
2. To have taken part in the exercise of judicial functions in the decision of a national tribunal, court of arbitration, or international commission of inquiry upon the case in question.

#### ARTICLE 25

The following are causes for challenging the competence of a judge to take cognizance of a suit.

1. Those which constitute a disability;
2. To have been of counsel, or attorney for any of the parties to the pending suit, or to have been such before a national tribunal or a court of arbitration or international commission of inquiry in the controversy which gave rise to such suit;
3. To have directly cooperated, in a public character, whether political, administrative or military, or in a private capacity, in the acts or omissions giving rise to the suit; or if the relatives included in Section 1 of the next preceding article should thus have cooperated in said acts or omissions in the manner aforesaid;
4. To have expressed a definite opinion by writing, outside the exercise of his functions, on the subject matter in controversy.

#### ARTICLE 26

The judges are obliged to excuse themselves from intervening in a suit whenever they shall be affected by any of the causes of disability established by Article 24, but they shall not incur any responsibility whatsoever for failure or delay in so doing, when such cause consists in the fact that any of the relatives mentioned in Section 1 of the aforesaid article has a direct and personal interest in the matter in question and the judge shall swear not to have known of such fact.

#### ARTICLE 27

It is optional with the judges to excuse themselves from taking cognizance of a suit when they are affected by any of the causes of challenge set forth in Sections 2, 3 and 4 of Article 25; but the parties have the right of challenging them, and, upon proof of the fact, to obtain their removal. [186]

#### ARTICLE 28

For an excuse as well as for a challenge, there must be invoked one of the causes prescribed in Articles 24 and 25 of these regulations, stating the same clearly and briefly, and the respective facts alleged shall be substantiated in accordance with the rules established in the ordinance of procedure.

#### ARTICLE 29

With the exception of the orders relating to inhibition or separation, the resolutions adopted by the court in the course of a controversy with the concurrence of a judge who is incapacitated, may be vacated on petition of any of the contending parties, provided that such petition to vacate shall be filed before the proceedings by which the court, deeming the substantiation of the suit as complete, shall declare that final judgment must be rendered.

### CHAPTER FOUR

#### Investiture, Functions and Privileges of the Judges

#### ARTICLE 30

The titular or alternate judges acquire their investiture by virtue of the appointment decreed by the executive power of the nation to which they belong, and by virtue of their oath of office, according to Article IX of the convention.

#### ARTICLE 31

The entering of the titular judges upon the exercise of their functions as members of the court, as well as the incorporation of the alternates who are to substitute for them in the cases provided for by law, is accomplished by their appearance in court with authentic documents setting forth their appointments and by their taking the oath of office referred to in the next preceding article.

#### ARTICLE 32

The judges in office are equal, and their precedence, after the President and Vice President, shall

be determined upon one of the following grounds, in the order in which they are stated:

1. The date of appointment; [187]
2. The date of taking their oath of office;
3. The date of entering upon their duties;
4. The date of their professional diplomas.

The titular judges shall have precedence over the alternates.

#### ARTICLE 33

The titular and alternate judges enjoy, in the Central American States, not of their own nationality, all the privileges and immunities of diplomatic agents, and may use, as the latter, the shield and flag of the country to which they belong.

#### ARTICLE 34

Without impairing the provisions of Article IX of the convention and of the last clause of Article 6 of the present regulations, the judges shall be entitled to receive salary only while in the exercise of their functions. The alternate judges called to form part of the tribunal according to law, shall be paid an adequate sum for their travelling expenses, to be fixed by the court when they are due in accordance with the provisions of Article 8 of these regulations.

### CHAPTER FIFTH

#### Incompatibilities and Prohibitions relating to the Judges

#### ARTICLE 35

The office of a judge in the exercise of his functions, whether titular or alternate, is incompatible: (1) With the exercise of the profession of a lawyer; (2) With the filling of public offices.

#### ARTICLE 36

With regard to the provisions of the next preceding article, a public office shall be understood to be any office which implies the possession of political, internal or international authority, jurisdiction or representation.

#### ARTICLE 37

The titular or alternative judges, although not in the exercise of their functions, are incapacitated to intervene as counsel or advisers for any of the parties in the cases before the court for its decision.

[188]

#### ARTICLE 38

The judges in office are forbidden:

1. To be members of any special court of arbitration, or international commission of inquiry, which may be organized by agreement of any two or more Central American Governments;
2. To be organs of communication of any government before the court;
3. To provoke or to carry on any controversy in the press, upon timely questions of Central American policy, or to take part in manifestations of applause or criticism in respect of any Central American Government.

#### CHAPTER SIXTH

The modus operandi of the Court

#### ARTICLE 39

Every act of the court shall be executed at a regular or special session, and all five judges who compose the same shall be present thereat.

#### ARTICLE 40

A majority of at least three concurring votes is necessary in order that there may be an agreement or resolution adopted by the court, and, if necessary to obtain the same, the rule established in Article XXIII of the convention shall be applied.

#### ARTICLE 41

The election of the President, Vice President, Secretary and subordinate employees of the office, shall be by vote; but if, after two votes have been taken, no majority shall result, the choice shall be effected by lot between the opposing candidates. In elections for President, the court shall arrange that all the judges who compose the tribunal shall alternate in that office during a period of five years.

#### ARTICLE 42

The court shall hold its regular sessions on Monday, Wednesday and Friday of each week, beginning at one o'clock in the afternoon; and special sessions whenever the President shall deem it advisable. The regular office hours for the ordinary business of the court shall be from [189] twelve-thirty to five-thirty in the afternoon, with the exception of holidays and other days made so by the law of

the domicile of the court. The exception shall not apply in urgent cases.

The Secretary shall be present at all sessions of the court.

#### ARTICLE 43

There shall be made a record of each session of the court with all possible and necessary details, including the orders given and the course followed in the judicial cases pending.

#### ARTICLE 44

At each sitting of the court there shall be read the record of the next preceding session, and after it has been approved, with or without amendments, it shall be recorded in a book kept for that purpose, and it shall be signed by all judges and by the Secretary.

The discussion of the record shall be limited to the accuracy of the statements therein contained.

The records must be made successively, without leaving unnecessary spaces between them.

#### ARTICLE 45

It is the right of the judges to have the reasons of their motions and votes included in the record.

The statements which they shall formulate to that effect shall be written down with a clear reference to the respective record, in a special book called Book of Votes.

The judges shall not formulate any protest against the decisions of the court, or against the opinions of their colleagues.

#### ARTICLE 46

The resolutions adopted at a session may be reconsidered at the following sitting, if the court should so decide upon petition of any of the judges.

The petition for review must be made immediately after the respective record shall be approved, and the resolutions which may have been issued with a view to the immediate execution thereof, and those which may contain a final or interlocutory judgment, cannot be made the subject of the said petition. [190]

In the cases relative to the administration and internal discipline of the office, the court reserves to itself the power to modify or revoke, at any time, the orders which it shall issue.

#### ARTICLE 47

At the first session each year, which shall be held on the 25th of May, except in case of impossibility, the court shall fix its budget of expenses for the year and shall make the appointments of

the President, Vice-President, Secretary, Treasurer and subordinate employees of the office, for the new term. The election of the President, Vice-President and Secretary shall be communicated to the Governments of Central America and to the Supreme Courts of Justice of the five Republics, which shall be made acquainted with the signatures of the said functionaries.

#### ARTICLE 48

If, at the end of the year, it should not be possible to make the election of the President and Vice-President, as well as the appointment of the Secretary and all other employees of the court, the term of the President and Vice-President shall be understood to be extended and the others shall continue in the temporary discharge of the duties of their respective offices.

#### ARTICLE 49

The sessions of the court shall be secret, except as otherwise decided.

#### ARTICLE 50

The court cannot permanently change the domicile prescribed for it by the respective convention, and shall not change it temporarily without the adoption of a previous resolution, founded upon any of the grounds provided for in Article V of said convention.

#### ARTICLE 51

The language of the court is the Castilian.

The contending parties shall make the petitions in the said language, and when needing to avail themselves of a document written in any other language, they shall add to it an authentic translation of the same.

The court shall order a translation by means of interpreters, and, with all the formalities prescribed by the ordinance of procedure, of all [191] documents in a foreign language which it shall, *ex officio*, order included in the record, as well as the testimony of the witnesses who may not speak Spanish, and it shall have the right to verify in the same manner the accuracy of translations which the parties may offer.

#### ARTICLE 52

All the employees of the court shall promise before the same to discharge well and faithfully the duties of their offices.

## CHAPTER SEVENTH

### The President and Vice-President

#### ARTICLE 53

The President and Vice-President of the court shall be elected annually, according to the provisions of Article XII of the convention; and if at any time during the year both functionaries should be absent, owing to a cause which shall create a vacancy in their offices, or by leave of absence, the court shall be presided over during the vacancy or leave of absence, by the judge present who may have precedence.

#### ARTICLE 54

The President of the court, and, in his absence, the Vice-President, shall have power:

1. To conduct the sessions and fix the order in which the cases are taken up;
2. To call the judges to special sessions whenever the prompt dispatch of the cases pending may require it;
3. To sign the postal and telegraphic correspondence which may take place with the presidents or the supreme powers of the Central American States or foreign nations, or with the presidents of the courts and all other corporations of an international character;
4. To supervise the work of the office so that it shall be satisfactory in every respect;
5. To sign, together with the Secretary, all orders for the payment of salaries, services and materials for the office, which the treasury must make in accordance with the budget and other resolutions of the court, relating to the business management of the office; [192]
6. To grant leave of absence for eight days to the employees of the court, without salary;
7. To appoint the commissions for the rendition of opinions, in the cases which, according to the judgment of the court, may require it.

## CHARTER EIGHTH

### The Secretary

#### ARTICLE 55

The Secretary is the means of communication of the court and the immediate head of the same, whose branches he shall regulate with the approval of the President.

#### ARTICLE 56

In the absence of the Secretary, the chief clerk of the court shall act in his place or stead.

#### ARTICLE 57

The Secretary shall be at the office daily during the business hours.

#### ARTICLE 58

His functions are:

1. To be present at the sessions of the court and give the same an account of the business which shall occur;
2. To make the records of the sessions and enter the same upon the respective books;
3. To address, according to instructions, the correspondence of the court, of which he shall keep a full copy;
4. To arrange the library and archives of the court, make an inventory of its property and see that everything is kept in good condition;
5. To exercise in judicial cases the functions pertaining to the office of the secretary of a court of justice, according to the common practice;
6. To issue, with the approval of the President, all proper orders relating to the internal regulation of the office of the court;
7. To fill temporarily the office of treasurer of the court, until it shall determine to separate the functions of said office;
8. To direct all publications of the court, until otherwise determined. [193]

### CHAPTER NINTH

#### The Treasurer

#### ARTICLE 59

The functions of the Treasurer are:

1. To see to it that there shall be entered into the treasury the salaries and contributions which the Governments must furnish for the maintenance of the court, according to Article VII of the Convention of Washington; and, whenever he shall meet with difficulties regarding the subject, he shall notify the court in order that it may decide what may be deemed advisable;
2. To legalize in due form all drafts and receipts pertaining to the salaries of the judges in office, the lists of monthly expenses of the office and the documents relating to the extraordinary expenses; all in accordance with the budget of the court;

3. To keep the accounts of the treasury by the system of double entry, with the principal and auxiliary books which may be necessary, and to present monthly statements of his accounts to the court.

#### ARTICLE 60

The court shall keep its funds in a bank of its domicile, and, until otherwise determined, the Banco de Costa Rica shall continue to be the depository of the same.

### CHAPTER TENTH

#### Amendments to these Regulations

#### ARTICLE 61

These regulations cannot be amended either in whole or in part, except by virtue of a written motion to that effect made by one of the judges, setting forth the reasons and grounds therefore, which shall meet with unanimous approval or obtain a majority of four votes, at two successive sessions, held within an interval of no less than fifteen days.

Given in the Hall of Sessions of the Central American Court of Justice, San Jose de Costa Rica, this second day of December one thousand, [194] nine hundred and eleven. Let it be communicated to the Governments of Central America.

The President, Judge for Guatemala, Angel M. Bocanegra,

The Vice-President, Judge for Nicaragua, Daniel Gutierrez N.,

The Judge for Costa Rica, Jose Astua Aguilar,

The Judge for Honduras, Alberto Ucles,

The Judge for Salvador, Manuel I. Morales,

The Secretary, Alexandro Alvarado Quiros.