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International Court of Justice Manual



Last Revised: July 2024 by DSG K.P.

Introduction

The International Court of Justice (ICJ) is the principal judicial tribunal of the United Nations. It was established in 1945 by the UN Charter and is considered to be the successor of the Permanent Court of International Justice. It constitutes one of the six principal organs of United Nations. An informal alternative name of ICJ is World Court. Its function is to consider and resolve disputes between states, that have brought the case to the court, in accordance with international law. Also, the ICJ may be called by U.N. organs or agencies to give an Advisory Opinion on legal matters. The Court is composed of 15 judges, who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council. It is assisted by a Registry, its administrative organ. Lastly, the official language of this Model ICJ is English, while the official languages of the ICJ are English and French.

Basic Terminology and Points of Law

Memorandum

Before the conference each couple of advocates has to write and present a Memorandum to the members of the court and to the opposing advocate team. The memorandum consists of four main sections: the introduction, the historical background, the legal grounds, and, at the end, the judgment requested (prayer).

Stipulations

Before the conference, both teams of advocate have to discuss and agree on common grounds and facts of the case. These agreements are called stipulations, and they can't be changed from the moment that they have been presented to the members of the Court.

Evidence

Evidence can be divided into two categories, the real evidence and the testimony.

Real evidence is any material object, e.g. documents, articles and conventions. Parties can initially bring up to 10 pieces of evidence to the Court. Upon questioning by the Presidency and the Judges, the Advocates are given the chance to present 5 extra pieces of evidence, which are called Rebuttals.

Testimony is the statement made by a witness who is under oath. Each party presents three witnesses.



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Burden of Proof



The Burden of Proof is based on the generally accepted principle of *actori incumbit probatio*, which means that the claimant has to prove his claim. This means that the Applicant part has to persuade a simple majority (51%) of the judges. If at the end of the case the Applicant party has met the burden, it wins automatically.

The Roles in the Court

Presidency

The President and the Deputy President are elected every three years. The President presides at all meetings of the Court and he/she is responsible to organize the whole procedure of the trial. During judicial deliberations, the President has a second vote in the event of votes being equally divided. The Deputy President replaces the President in his/her absence.

The Registry

The Registry is the permanent administrative organ of the Court. Head of this administrative organ is the Registrar who is not responsible only for helping in the administration of justice — with sovereign states as litigants — and acting as an international secretariat. Its activities are both judicial and diplomatic, as well as administrative. The Registrar is not allowed to vote.

Advocates

In this Model ICJ there are four advocates, two for each party. The advocates are paid, independent lawyers and they try to support their clients. There is the Applicant Party, which is the party bringing the case before the Court and there is the Respondent Party, namely the party that “responds” to the allegations by the Applicant.

Judges

The judges are independent lawyers just like the advocates, but their role is very different. The Judges rule each case on the merits of International Law. During the conference Judges must remain as objective as possible and they must never pre-judge until the final deliberation.

The Procedure of the case

Before the conference

Before the conference the advocates must submit the following documents:

- 1) Memorandum by each party
- 2) Evidence list by each party
- 3) Witness list by each party
- 4) Stipulations by both parties

Prior to the Conference, judges are only required to read the memoranda. They are not allowed to make their own research to avoid any bias and because it is extremely important to have their own, original opinion on the case.

At the conference

This is program of the CGSMUN ICJ

1. Introduction
2. Reading out the Stipulations
3. Opening Statements by the Applicant Party
4. Opening Statements by the Respondent Party
5. Presentation of Evidence by the Applicant Party
6. Presentation of Evidence by the Respondent Party
7. Deliberation: During this deliberation, judges examine the pieces of evidence that advocates submitted during the presentation of evidence
8. Questioning: During this questioning, judges ask questions to the advocates concerning all the pieces of evidence that they have evaluated.
9. Examination of witnesses of the Applicant Party
10. Examination of witnesses of the Respondent Party
11. Deliberation: During this deliberation, judges examine the testimonies of the witnesses.
12. Questioning: During this questioning, judges ask questions to the advocates concerning the answers of the witnesses and their testimonies
13. Presentation of Rebuttal Evidence by the Applicant Party
14. Presentation of Rebuttals Evidence by the Respondent Party
15. Deliberation: During this deliberation, judges examine the rebuttals and the overall case up until this point
16. Questioning: During this questioning, judges ask questions to the advocates concerning the rebuttals and anything else related to the case
17. Closing Statements by the Applicant Party
18. Closing Statements by the Respondent Party

19. Final Deliberation: During this deliberation, judges discuss everything that have been brought to the court in order to reach the verdict
20. Verdict

Explanation of the procedure

Opening Statements

During the opening statements advocates will briefly introduce the case and present to judges their point of view. They will present all the important parts of their memorandum, which means they will refer to the historical background, their policy and the judgment requested (prayer)

Presentation of Evidence

During the presentation of evidence, advocates will submit **only real** pieces of evidence to support their case. Each opposing party can object on specific grounds during the presentation of evidence (check objections part)

Witnesses

Advocates will try to fill all the aspects of the case by witnesses' examination. There are both direct and cross examination to every witness by each party. Each opposing party can object on specific grounds during witnesses' examination (check objections part)

Direct Examination: The party who called the witness is doing the direct examination. During the direct examination the advocates cannot make a leading question unless the witness is qualified as an expert.

Cross Examination: The opposing party is doing the cross examination. During the cross examination all members are encouraged to make leading question, in order to discover the truth. During cross examination, the questions may only be relevant to something that the witness referred to, in his previous answers. Thus, in cross examination all questions might be relevant to direct examination.

Examination of Evidence

This is a very difficult part of the case because the judges are called to decide which pieces of evidence were actually important to the case and are going to be proven beneficial when reaching the verdict. During the deliberation of the evidence, each judge is responsible to investigate the source, author, date and the content of the evidence he/she was assigned. It also has to be checked on the grounds of relevance, reliability and authenticity. After the independent examination, the judge has to briefly

analyze his/her piece of evidence and refer to all the important parts that were discovered during the examination. Lastly, all judges after discussion will need to decide upon the evidence's importance and to how much consideration the court is going to take it under.

Closing Statements

During the closing statements advocates will point out and explain some facts of the whole trial. Also, they will try to solve any query and misunderstanding that judges might still have.

Objections

During the presentation of evidence

The Advocates can object on the grounds of:

- authenticity: it implies that the piece of evidence has been subject to alterations of the evidence by adding, removing or changing information, e.x We are not sure if this is the whole article
- reliability: it implies that the source or the author of the piece of evidence is not reliable, e.x This document is from an unknown author
- relevance: it implies that the piece of evidence is irrelevant to the case, e.x It is not relevant to our case

During the testimony of the witnesses

The Advocates can object on the grounds of:

- Hearsay, when the witness says something that someone else, who is not present, said
- Leading Question, when the advocate tries to lead the answer of the witness during the direct examination, or when the question made by the advocate is answered with a yes or no manner
- Relevance, when someone during the Cross Examination asks the witness something that it has not brought up by the advocates during the Direct Examination.
- Badgering, when the advocates intimidate the witness on purpose
- Lack of competence, when the witness is asked a question which requires an expertise on a specific field
- Non-responsive answer is the only objection that is related to the witness' answers. This objection is raised when the witness did not answer the question posed to him by the Advocates or that the answer was irrelevant to the question asked.

General tips

The statements of the advocates are NOT pieces of evidence. As paid lawyers, they will try to persuade you in order to make their client happy.

Each evidence (real or testimony) is not law unless the judges evaluate it and vote it as countable. The applicant party should solve any confusion that the respondent party will create.