

# **“A World Court of Human Rights – Consolidated Draft Statute and Commentary”**

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## **Statute of the World Court of Human Rights**

### **Preamble**

The States Parties to this Statute,

Reaffirming the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby all human beings may enjoy their civil and political rights, as well as their economic, social and cultural rights,

Noting, in particular, that according to Article 28 of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized,

Considering that a solid legal framework of international human rights treaties has been established by the United Nations and its specialized agencies,

Recalling that human rights entail legal obligations of States and other duty bearers to respect, protect and fulfil such rights, and that legal obligations demand accountability of duty bearers,

Deeply concerned about the fact that, notwithstanding the comprehensive legal obligations of all States and other duty bearers to respect, protect and fulfil international human rights, large numbers of human beings in all parts of the world are suffering every day of violations of their human rights,

Equally concerned about the fact that the vast majority of human beings around the world have no access to any effective domestic, regional or universal remedy against violations of their human rights and have no chance of being provided with adequate reparation for the harm suffered through these human rights violations,

Determined to address effectively this enormous implementation gap and the lack of effective international enforcement of human rights, and to this end to establish an independent permanent World Court of Human Rights, with comprehensive jurisdiction to decide in a final and binding manner about violations of human rights by States and relevant non-State actors and to provide the victims with adequate reparation,

Inviting in that spirit all States and other public and private actors that exercise power over people, to accept the jurisdiction of the World Court of Human Rights,

Emphasizing that the World Court of Human Rights established under this Statute shall be complementary to national human rights jurisdiction and shall not serve as an appeals court to regional human rights courts,

Have agreed as follows:

## **Part I: Establishment of the Court**

### **Article 1: The Court**

A World Court of Human Rights (“the Court”) is hereby established. It shall be a permanent institution and shall have the power to decide in a final and binding manner on all complaints about alleged human rights violations brought before it in accordance with this Statute.

### **Article 2: Seat of the Court**

1. The seat of the Court shall be established in Geneva in Switzerland (“the host State”).
2. The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf.
3. The Court may sit elsewhere, whenever it considers it desirable.

### **Article 3: Legal status and powers of the Court**

1. The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.
2. The Court may exercise its functions and powers, as provided for in this Statute, on the territory of any State Party and, by special arrangement, on the territory of any other State.

#### **Article 4: Definitions**

For the purposes of the present Statute:

1. The term "Entity" refers to any inter-governmental organization or non-State actor, including any business corporation, which has recognized the jurisdiction of the Court in accordance with Article 51.

2. The term "Court" refers to the World Court of Human Rights, which can act through its different organs as specified in Article 20 (2).

3. The term "human rights treaty" refers to any of the treaties listed in Article 5 (1).

#### **Part II: Jurisdiction**

##### **Article 5: Applicable law**

1. Pursuant to the provisions of this Statute, the Court shall have jurisdiction in respect of violations committed by any State Party or Entity of any human right enshrined in any of the following United Nations treaties in the field of human rights:

(a) International Covenant on Civil and Political Rights 1966

(b) Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty 1990

(c) International Covenant on Economic, Social and Cultural Rights 1966

(d) Slavery Convention 1926

(e) Protocol Amending the Slavery Convention 1953

(f) Convention on the Prevention and Punishment of the Crime of Genocide 1948

(g) Convention Relating to the Status of Refugees 1951 and Protocol Relating to the Status of Refugees 1967

(h) Convention on the Political Rights of Women 1952

(i) Convention relating to the Status of Stateless Persons 1954

(j) Supplementary Convention on the Abolition of Slavery 1956

(k) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1962

(l) International Convention on the Elimination of All Forms of Racial Discrimination 1965

(m) Convention on the Elimination of All Forms of Discrimination against Women 1979

(n) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

(o) Convention on the Rights of the Child 1989

(p) Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts 2000

(q) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2000

(r) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990

(s) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) 2000

(t) Convention on the Rights of Persons with Disabilities 2006

(u) International Convention for the Protection of All Persons from Enforced Disappearance 2006

2. On the proposal of a State Party any additional treaty can be included in the list of treaties specified in paragraph 1 by decision of two-thirds of the Assembly of States Parties.

#### **Article 6: General principles**

1. In exercising its jurisdiction, the Court shall determine whether an act or omission is attributable to a State or Entity for the purposes of establishing whether it committed a human rights violation. In so doing, the Court shall be guided by the principles of the international law of State responsibility which it shall apply also in respect of Entities subject to its jurisdiction, as if the act or omission attributed to an Entity was attributable to a State. The Court shall determine the wrongfulness of an act or omission by a State or Entity through the interpretation of international human rights law.

2. In exercising its jurisdiction, the Court shall be guided by the principles of universality, interdependence and indivisibility of all human rights, by general international law, general principles of law and by the jurisprudence of other international and regional courts.

#### **Article 7: Individual complaints by applicants**

1. The Court may receive and examine complaints from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the States Parties to the present Statute of any human right provided for in any human rights treaty to which the respective State is a Party.

2. The Court may also receive and examine complaints from any person, non governmental organization or group of individuals claiming to be the victim of a violation of any human right provided for in any human rights treaty by any Entity, which has made a declaration under Article 51 that it recognizes the jurisdiction of the Court in relation to human rights enlisted in such treaties.

3. The ratification of or accession to this Statute by a State shall be treated by the Secretary-General of the United Nations as a notification by a State of the suspension of the operation of complaint procedures accepted by the State in question under the human rights treaties covered by the Court's jurisdiction. The suspension shall take effect on the day of entry into force of this Statute in respect of the State in question and remain effective as long as the State remains subject to the Court's jurisdiction under the treaty in question.

#### **Article 8: Advisory opinions**

1. The Secretary-General of the United Nations and the United Nations High Commissioner for Human Rights may consult the Court regarding the interpretation of this Statute or of any human rights treaty listed in Article 5 (1).

2. The Court, at the request of a Member State of the United Nations, shall provide that State with an opinion regarding the compatibility of any domestic law with the aforesaid international instruments.

### **Part III: Procedure Concerning Individual Complaints**

#### **Article 9: Exhaustion of domestic remedies**

1. The Court may only deal with any individual complaint if the complaint has first been submitted to the highest competent domestic court in the respective State Party and the applicant is not satisfied with the judgment of this court, including the reparation afforded. Each State Party has an obligation to ensure that all applicants have access to effective judicial remedies in relation to all human rights enshrined in the applicable human rights treaties. Each State Party may identify, in its instrument of ratification, in relation to the applicable human rights treaties the judicial remedies which applicants must exhaust under their domestic system before they can lodge a complaint with the Court. Any subsequent changes in the required domestic remedies shall be notified to the Court.

2. This admissibility requirement does not apply if, in the view of the Court, the relevant domestic remedy is not available or effective or does not afford due process of law for the protection of the right or rights that have allegedly been violated. In exercising its discretion the Court shall pay particular attention to the following criteria:

(a) Whether the competent domestic courts have the competence to order interim measures necessary to avoid irreparable damage to a victim or victims of an alleged human rights violation.

(b) Whether such courts when finding a human rights violation, can afford the victim adequate reparation for the harm suffered, including restitution, rehabilitation, compensation and satisfaction.

3. Without prejudice to the application of paragraphs 1 and 2, an Entity may in its declaration submitted pursuant to Article 51 identify what internal remedies exist within its own structures.

**Article 10: Other admissibility criteria**

1. The Court shall not deal with any individual complaint that
  - (a) is anonymous; or
  - (b) is substantially the same matter that has already been examined in substance by the Court or by another procedure of international investigation or settlement, including before a regional court of human rights; or
  - (c) is incompatible with the provisions of the human rights treaty invoked; or
  - (d) is manifestly ill-founded; or
  - (e) constitutes an abuse of the right to individual complaint.
2. The Court has jurisdiction only in respect of human rights violations that occur or continue after the entry into force of this Statute.
3. If a State becomes a party to this Statute, or if an Entity accepts the jurisdiction of the Court, after the entry into force of this Statute, the Court shall exercise jurisdiction only in respect of human rights violations that occurred or continued after the accession or acceptance took effect.
4. The Court shall reject any complaint which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

**Article 11: Effect of reservations by States on admissibility**

1. In the application of Article 10, paragraph 1 (c), the Court shall determine whether a reservation entered by a State Party to any of the human rights treaties within the material jurisdiction of the Court and relevant in the case is permissible pursuant to the provisions of the treaty and the principles of the international law of treaties.
2. A permissible reservation precludes the admissibility of a complaint to the extent covered by the reservation. If the Court determines that a reservation is impermissible, it shall exercise its jurisdiction in respect of the State Party without being barred by the reservation.

**Article 12: Amicus curiae and third-party intervention**

1. The Court may, in the interest of the proper administration of justice, admit written comments by any amicus curiae interested in the case. The Court may also invite specific third parties to take part in hearings.
2. If the respondent party is an Entity, the State, under the jurisdiction of which the alleged human rights violation has been committed, has the right to participate in the proceedings as a third party.

### **Article 13: Striking out complaints**

1. The Court may at any stage of the proceedings decide to strike a complaint out of its list of cases where the circumstances lead to the conclusion that:

(a) the applicant does not intend to pursue his or her complaint; or

(b) the matter has been resolved; or

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the complaint.

2. However, the Court shall continue the examination of the complaint if respect for human rights so requires.

3. The Court may decide to restore a complaint to its list of cases if it considers that the circumstances justify such a decision.

### **Article 14: Examination on the merits**

1. If the Court declares a complaint admissible, it shall pursue the examination of the case, together with the representatives of the parties to the case.

2. If the Court decides to undertake an in depth investigation of the facts of a case, the respondent party and, in cases concerning any Entity, the State Party under the jurisdiction of which the alleged human rights violation has been committed, shall cooperate and furnish all required documents and necessary facilities.

3. If the Court decides to carry out a fact finding mission, the respondent party and, in cases concerning any Entity, the State Party concerned, shall provide all necessary cooperation and facilitate the investigation, including by granting access to all places of detention and other facilities. In carrying out fact finding missions, the Court may be assisted by international experts.

4. Decisions on admissibility may be joined with the judgment on the merits.

### **Article 15: Friendly settlement**

1. At any stage of the proceedings the Court shall place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights.

2. If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief statement of the facts and of the solution reached.

#### **Article 16: Public hearings**

1. The Plenary Court shall always hold hearings before rendering a judgment on a complaint. Chambers are free to decide whether or not to hold a hearing.

2. Hearings shall be public unless the Court in exceptional circumstances decides otherwise.

3. In addition to the applicants and the respondent parties, the Court shall hear such witnesses and experts as it deems necessary. Witnesses may be summoned to appear before the Court.

4. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. For this purpose, it shall establish a Victims and Witnesses Unit within the Office of the Registrar.

5. Documents deposited with the Registrar shall be accessible to the public unless the President of the Court decides otherwise.

#### **Article 17: Judgments of the Court**

1. The Court shall decide by a written judgment whether or not the respondent party has violated an obligation to respect, fulfil or protect any human right provided for in any applicable human rights treaty.

2. If the Court finds a human rights violation, it shall also order the respondent party, ex officio or upon request, to afford the victim adequate reparation for the harm suffered, including restitution, rehabilitation, compensation, guarantees of non-repetition, or any other form of satisfaction.

3. The Court shall give reasons for its judgments as well as for decisions declaring complaints admissible or inadmissible or for striking them off the list of cases.

4. If a judgment, an admissibility or strike-out decision does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

5. Judgments shall be pronounced orally and shall be published in the languages indicated in Article 38.

#### **Article 18: Binding force, execution and supervision of judgments**

1. The judgments of the Court shall be final and binding under international law.

2. The States Parties and all other respondent parties are bound to abide by the judgment of the Court in any case to which they are parties. In particular, they are bound to grant the victim adequate reparation for the harm suffered, as decided by the Court, within a period of no longer than three months from the delivery of the judgment, unless the Court specifies a different deadline.



3. The States Parties undertake to directly enforce the judgments of the Court by the respective bodies.

4. Any judgment of the Court shall be transmitted to the UN High Commissioner for Human Rights who shall supervise its execution. The States Parties, other respondent parties and the applicants shall report to the High Commissioner within a time limit specified by the Court all measures taken to comply with the judgment and to enforce its execution.

5. If the High Commissioner concludes that any State Party or other respondent party fails to abide by or enforce any judgment of the Court, he or she shall seize the Human Rights Council or, if he or she deems it necessary, through the Secretary-General the Security Council with a request to take the necessary measures that will bring about the enforcement of the judgment.

#### **Article 19: Interim measures of protection**

1. At any time after the receipt of a complaint and before a final decision has been reached, the Court may transmit to the State Party or Entity concerned an order that the State or Entity take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged human rights violations.

2. Before a case is assigned to a Chamber, the Presidency will exercise the Court's powers under paragraph 1.

3. Where the Court exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the complaint.

4. Such orders for interim measures are binding with immediate effect upon the respondent party and shall be enforced and supervised in the same manner as judgments in accordance with Article 18.

5. The Court shall periodically review and withdraw orders for interim measures if they are no longer necessary to avoid irreparable damage to persons.

### **Part IV: Composition, Organization and Administration of the Court**

#### **Article 20: Composition and organs of the Court**

1. The Court shall consist of 21 judges, nationals of the States Parties to the Statute, elected in an individual capacity. All judges shall serve as full-time members of the Court and shall be available to serve on that basis from the commencement of their terms of office.

2. The Court shall be composed of the following organs:

(a) Plenary Court

- (b) Chambers and Committees
- (c) Presidency
- (d) Registry

#### **Article 21: Qualification of judges**

1. The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices.

2. Every candidate for election to the Court shall have established competence in the law of human rights and extensive experience in a professional legal capacity which is of relevance for the judicial work of the Court.

#### **Article 22: Nomination of candidates**

1. Nomination of candidates for election to the Court may be made by any State Party to this Statute, and shall be accompanied by a statement specifying how the candidate fulfils the requirements of Article 21.

2. In the nomination procedure States Parties shall invite applications of candidates and the selection shall be carried out by an independent panel of experts with utmost transparency.

3. Each State Party wishing to nominate candidates for any given election shall put forward two candidates, one female and one male. The candidates shall be nationals of that State Party.

#### **Article 23: Election of judges**

1. The judges shall be elected by secret ballot at a meeting of the Assembly of States Parties convened for that purpose under Article 43. Subject to paragraph 3, the persons elected to the Court shall be the 21 candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting.

2. In the event that a sufficient number of judges are not elected on the first ballot, successive ballots shall be held in accordance with the procedures laid down in paragraph 1 until the remaining places have been filled.

3. No two judges may be nationals of the same State. A person who, for the purposes of membership of the Court, could be regarded as a national of more than one State shall be deemed to be a national of the State in which that person ordinarily exercises civil, political and social rights.

4. The States shall, in the selection of judges, take into account the need, within the membership of the Court, for:

- (a) the representation of the principal legal systems of the world;
- (b) equitable geographical representation;

(c) expertise on specific issues, including, but not limited to, rights of women, rights of the child, rights of persons with disabilities, and rights of members of minorities and indigenous peoples; and

(d) a balanced representation of female and male judges.

#### **Article 24: Term of office**

1. Subject to paragraph 2, judges shall hold office for a term of nine years and, subject to paragraph 3, shall not be eligible for re-election.

2. At the first election, one third of the judges elected shall be selected by lot to serve for a term of three years; one third of the judges elected shall be selected by lot to serve for a term of six years; and the remainder will serve for a term of nine years.

3. A judge who is selected to serve for a term of three years under paragraph 2 shall be eligible for re-election for a full term.

4. The judges shall stay in office until the expiration of their term. However, they shall continue to serve with regard to cases where a hearing has taken place and that are still pending, for which purposes they shall not be replaced by the newly elected judges.

#### **Article 25: Judicial vacancies**

1. In the event of a vacancy, an election shall be held in accordance with Article 23 to fill the vacancy.

2. A judge elected to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is three years or less, shall be eligible for re-election for a full term under Article 23.

#### **Article 26: The Plenary Court**

The Plenary Court shall:

(a) Elect its President, its first and second Vice-President for a period of three years. They may be re-elected.

(b) Set up three Chambers, constituted for a fixed period of time.

(c) Adopt the Rules of Procedure of the Court and other Regulations as deemed necessary.

(d) Elect the Registrar and two Deputy Registrars.

(e) Take a decision in accordance with Articles 31 (3) and 33.

(f) Take a decision to remove a judge, the Registrar or a Deputy Registrar from office in accordance with Article 34.

(g) Take a decision to waive the privileges and immunities of a judge, the Registrar or a Deputy Registrar in accordance with Article 35 paragraph 2.

(h) Exercise judicial functions in accordance with Article 27 paragraphs 7 and 8.

(i) Issue advisory opinions in accordance with Article 8.

#### **Article 27: Chambers and Committees**

1. The Court shall establish three Chambers of seven judges each.

2. Chamber 1 shall be chaired by the President of the Court, Chamber 2 by the first Vice-President, and Chamber 3 by the second Vice-President.

3. Each Chamber shall establish two Committees of three judges each. The President and the Vice-Presidents of the Court shall not be members of a Committee.

4. Each Committee shall elect its own chairperson.

5. A Committee may, by a unanimous vote, declare inadmissible or strike out of the list of cases an individual complaint where such a decision can be taken without further examination. The decision shall be final and binding.

6. If no decision is taken by a Committee in accordance with the preceding paragraph, the respective Chamber shall decide on the admissibility and merits of individual complaints.

7. Where a case pending before a Chamber raises a serious question affecting the interpretation of any provision of a human rights treaty under consideration or where the resolution of a question before it might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Plenary Court.

8. Within a period of three months from the date of the judgment of a Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Plenary Court. This request shall be submitted to another Chamber of the Court which shall accept the request only if the case raises a serious question affecting the interpretation or application of any provision of a human rights treaty under consideration, or a serious issue of general importance. If this Chamber accepts the request, the Plenary Court shall decide the case by means of a judgment.

#### **Article 28: Final judgments**

1. The judgment of the Plenary Court shall be final.

2. The judgment of a Chamber shall become final:

(a) when the parties declare that they will not request that the case be referred to the Plenary Court; or

(b) three months after the date of the judgment, if reference of the case to the Plenary Court has not been requested; or

(c) when another Chamber of the Court rejects the request of a party to refer the case to the Plenary Court.

#### **Article 29: The Presidency**

1. The President and the First and Second Vice-Presidents of the Court shall be elected by an absolute majority of the judges. They shall each serve for a term of three years or until the end of their respective terms of office as judges, whichever expires earlier. They shall be eligible for re-election.

2. The First Vice-President shall act in place of the President in the event that the President is unavailable or disqualified. The Second Vice-President shall act in place of the President in the event that both the President and the First Vice-President are unavailable or disqualified.

3. The President, together with the First and Second Vice-Presidents, shall constitute the Presidency, which shall be responsible for the proper administration of the Court and all other functions conferred upon it in accordance with this Statute.

4. The President shall also function as chair of the first Chamber, the First Vice-President as chair of the second Chamber, and the Second Vice-President as chair of the third Chamber. As chairs of the Plenary Court and the three Chambers, the President and the two Vice-Presidents may adopt orders for interim measures in accordance with Article 19. As soon as the Plenary Court or the respective Chamber is in session, it shall either confirm or withdraw such orders.

#### **Article 30: The Registry**

1. The Registry shall be headed by the Registrar, who shall be the principal administrative officer of the Court. The Registrar shall exercise his or her functions under the authority of the President of the Court.

2. The Registrar and the two Deputy Registrars shall be persons of high moral character and be highly competent in the field of human rights law. They shall be elected by an absolute majority of the judges for a period of five years and shall be eligible for re-election. They shall serve on a full-time basis.

3. The Registrar shall appoint such qualified staff as may be required. In the employment of staff, the Registrar shall ensure the highest standards of efficiency, competency and integrity and shall take into account the need for the representation of the principal legal systems of the world.

4. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide protective measures and security arrangements, counseling and other appropriate assistance for witnesses and victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses. The Unit shall include staff with expertise in trauma.

5. The Registrar shall set up a Domestic Remedies Unit within the Registry. This Unit shall engage with States Parties with the aim of strengthening national protection systems. In case a State Party applies to the Trust Fund for assistance under Article 39 (4) (b), the State Party shall provide the Unit with the information on domestic judicial remedies as outlined in Article 9 (1).

#### **Article 31: Independence of the judges**

1. The judges shall be independent in the performance of their functions.

2. Judges shall not engage in any other occupation of a professional nature, or in any other activity which is likely to interfere with their judicial functions or to affect confidence in their independence.

3. Any question regarding the application of paragraph 2 shall be resolved by the President. If it cannot be resolved it shall be decided by an absolute majority of the judges. Where any such question concerns an individual judge, that judge shall not take part in the decision.

#### **Article 32: Solemn undertaking**

Before taking up their respective duties under this Statute, the judges, the Registrar, the Deputy Registrars and other staff of the Court, as defined in the Rules of Procedure, shall each make a solemn undertaking in open court to exercise his or her respective functions impartially and conscientiously.

#### **Article 33: Exclusion of judges**

A judge shall not participate in any case in which his or her impartiality might reasonably be doubted. At the request of a judge or any party to the proceedings, a judge may be excluded from participating in a case by a decision of a majority of the judges in the respective Committee, Chamber or in the Plenary Court.

#### **Article 34: Removal from office**

In case of a serious breach of his or her duties under this Statute or inability to exercise the respective functions under this Statute, a judge, the Registrar or a Deputy Registrar shall be removed from office by a decision of the Plenary Court taken by a two-thirds majority of all judges. The person whose conduct is challenged shall have full opportunity to present and receive evidence and to make submissions in accordance with the Rules of Procedure of the Court.

#### **Article 35: Privileges and immunities**

1. The Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfillment of its purposes.

2. The judges, the Registrar and the Deputy Registrars, shall, when

engaged on or with respect to the business of the Court, enjoy the same privileges and immunities as are accorded to heads of diplomatic missions and shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind in respect of words spoken or written and acts performed by them in their official capacity. These privileges and immunities may be waived by a decision of the Plenary Court taken by an absolute majority of all judges.

3. The staff of the Registry shall enjoy the privileges and immunities and facilities necessary for the performance of their functions, in accordance with the agreement on the privileges and immunities of the Court. These privileges and immunities may be waived by a decision of the Presidency.

4. Counsel, experts, witnesses or any other person required to be present at the seat of the Court shall be accorded such treatment as is necessary for the proper functioning of the Court, in accordance with the agreement on the privileges and immunities of the Court.

#### **Article 36: Salaries, allowances and expenses**

The judges, the Registrar and the Deputy Registrars shall receive such salaries, allowances and expenses as may be decided upon by the Assembly of States Parties. These salaries and allowances shall not be reduced during their terms of office.

#### **Article 37: Representation before the Court**

1. Applicants have the right to appear before the Court in person or to be represented by legal counsel or by any other duly authorized person or organization.

2. If the interest of justice so require, the Court, upon request of the applicant or another party, shall grant legal aid to the applicant or another party without sufficient means to pay for legal counsel.

#### **Article 38: Official and working languages**

1. The official languages of the Court shall be Arabic, Chinese, English, French, Russian and Spanish. Important official documents of the Court, including its Rules of Procedure, all judgments of the Plenary Court and leading judgments of the Chambers shall be published in all official languages of the Court. The Presidency shall determine which documents and judgments fall in this category.

2. The Court shall decide in its Rules of Procedure which of the official languages will be used as working language or languages. If requested by a party to the case, the court may decide to hold hearings in any other language.

3. Any decision declaring a complaint admissible or inadmissible or striking it out and any judgment shall be published in the working language or languages. If requested by a party to the case, the Court may also issue its decision or judgment in any other language.

### **Article 39: Trust Fund**

1. A Trust Fund shall be established by decision of the Assembly of States Parties.

2. All States Parties and Entities are invited to provide voluntary contributions.

3. The Trust Fund shall be managed according to criteria to be determined by the Assembly of States Parties.

4. The Trust Fund shall be used for the following purposes:

(a) to assist victims of human rights violations and their families

(b) to assist States Parties to improve their domestic judicial remedies in accordance with Article 9.

### **Part V: Obligations of States Parties and Entities**

#### **Article 40: Cooperation with the Court**

1. States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its examination of complaints.

2. If the Court conducts a fact finding mission to the territory of a State Party in accordance with Article 14 paragraph 3, the authorities shall fully cooperate with the Court. In particular, the Court shall enjoy full freedom of movement and inquiry throughout the territory of the State Party, unrestricted access to State authorities, documents and case files as well as the right of access to all places of detention and the right to hold confidential interviews with detainees, victims, experts and witnesses.

3. The Court shall have the authority to make special requests to States Parties for cooperation and judicial assistance, and the requested States Parties shall provide such assistance and cooperation to the best of their abilities.

#### **Article 41: Compliance with and enforcement of judgments and provisional measures**

1. States Parties shall fully comply with any judgments and orders for interim measures in any proceedings to which they are a party. States Parties shall ensure that any judgments and orders for interim measures of the Court can be directly enforced by their domestic authorities in the same way as any judgments and binding decisions of any domestic court.

2. With respect to the enforcement of binding judgments against any Entity, States Parties shall provide full cooperation and judicial assistance, as requested by the Court.

3. States Parties shall enact special laws for the implementation of their obligations under this Statute.



#### **Article 42: Compliance by Entities**

Any Entity, which has made a specific declaration recognizing the jurisdiction of the Court in accordance with Article 51, shall fully cooperate with the Court in any proceedings to which it is a party and shall comply with any judgment and order for interim measure issued by the Court.

#### **Part VI: Assembly of States Parties**

##### **Article 43: Assembly of States Parties**

1. An Assembly of States Parties to this Statute is hereby established. Each State Party shall have one representative in the Assembly who may be accompanied by alternates and advisors. Other States which have signed the Statute, as well as Entities which have accepted the jurisdiction of the Court, may participate as observers in the Assembly.

2. The Assembly shall:

(a) Elect the judges, as provided by Article 23;

(b) Consider and decide the budget for the Court in accordance with the provisions in Part VII;

(c) Establish the Trust Fund and determine criteria for its management in accordance with Article 39;

(d) Decide upon the salaries, allowances and expenses of the judges, the Registrar and the Deputy Registrars, as provided by Article 36;

(e) Decide on amendments to the Statute in accordance with Articles 5(2) and 53; and

(f) Perform any other function consistent with this Statute and the Rules of Procedure.

3. The President of the Court and the Registrar or their representatives may participate, as appropriate, in meetings of the Assembly.

4. The Assembly shall meet at the seat of the Court or at the Headquarters of the United Nations once a year and, when circumstances so require, hold special sessions.

5. Each State Party shall have one vote. Entities that have accepted the jurisdiction of the Court have the right to attend the meetings of the Assembly and to speak. Every effort shall be made to reach decisions by consensus.

6. A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.

7. The Assembly shall adopt its own Rules of Procedure.

8. The official and working languages of the Assembly shall be those of the General Assembly of the United Nations.

## **Part VII: Financing**

### **Article 44: Funds of the Court and of the Assembly of States Parties**

The expenses of the Court and the Assembly of States Parties, as provided for in the budget decided by the Assembly of States Parties, shall be provided by the following sources:

(a) Assessed contributions made by States Parties;

(b) Contributions made by Entities that have accepted the jurisdiction of the Court; and

(c) Funds provided by the United Nations, subject to the approval of the General Assembly.

### **Article 45: Voluntary contributions**

Without prejudice to Article 44, the Court may receive and utilize, as additional funds, voluntary contributions from governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties.

### **Article 46: Assessment of contributions**

The contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale is based.

### **Article 47: Annual audit**

The records, books and accounts of the Court, including its annual financial statements, shall be audited annually by an independent auditor.

## **Part VIII: Final clauses**

### **Article 48: Signature, ratification, accession and succession**

1. The present Statute is open for signature, ratification, accession and succession by all States.

2. Signatures as well as any instruments of ratification, accession and succession shall be deposited with the Secretary-General of the United Nations.

#### **Article 49: Entry into force**

1. The present Statute shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the thirtieth instrument of ratification, accession or succession.

2. For each State ratifying the present Statute or acceding or succeeding to it after the deposit of the thirtieth instrument of ratification, accession or succession, the present Statute shall enter into force on the thirtieth day after the deposit of its own instrument of ratification, accession or succession.

#### **Article 50: Reservations and Declarations by States Parties**

1. Each State may, at the time of ratification of this Statute or accession thereto, declare that it does not recognize the jurisdiction of the Court in relation to certain human rights treaties or certain provisions thereof.

2. Any State Party having made a reservation in accordance with paragraph 1 of this Article may, at any time, withdraw this reservation by notification to the Secretary General of the United Nations.

3. Other reservations shall not be made to this Statute.

4. Each State may declare at any time that it recognizes the jurisdiction of the Court also in relation to UN human rights treaties not listed in Article 5 (1).

#### **Article 51: Declaration by Entities**

1. Any Entity may at any time declare under this Article that it recognizes the competence of the Court to receive and examine complaints from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by the respective Entity of any human right provided for in any human rights treaty listed in Article 5 (1).

2. When making such a declaration, the Entity may also specify which human rights treaties and which provisions thereof shall be subject to the jurisdiction of the Court.

3. Such declaration shall be deposited with the Secretary-General of the United Nations.

#### **Article 52: Withdrawal**

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. Any other Entity that has accepted the jurisdiction of the Court may withdraw its acceptance by written notification addressed to the Secretary-General of the United Nations. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

3. The withdrawal of a State or Entity is merely jurisdictional in nature and shall not reduce or affect its substantive human rights obligations.

4. A State or Entity shall not be discharged, by reason of withdrawal, from the obligations arising from this Statute, including any financial obligations which may have accrued, while a State was a Party to the Statute or an Entity had accepted the jurisdiction of the Court. Withdrawal shall not affect any cooperation with the Court in connection with proceedings which were commenced prior to the date when the withdrawal became effective, nor shall it prejudice in any way the continued consideration of any matter which was already under consideration by the Court prior to the date on which the withdrawal became effective.

#### **Article 53: Amendments of the present Statute**

1. After the expiry of seven years from the entry into force of this Statute, any State Party may propose amendments thereto. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations, who shall promptly circulate it to all States Parties.

2. No sooner than three months from the date of notification, the Assembly of States Parties, at its next meeting, shall, by a majority of those present and voting, decide whether to take up the proposal.

3. The adoption of an amendment at a meeting of the Assembly of States Parties on which consensus cannot be reached shall require a two-thirds majority of States Parties.

4. An amendment shall enter into force for all States Parties one year after instruments of ratification or acceptance have been deposited with the Secretary-General of the United Nations by seven-eighths of them

5. If an amendment has been accepted by seven-eighths of States Parties in accordance with paragraph 4, any State Party which has not accepted the amendment may withdraw from this Statute with immediate effect, notwithstanding article 52, paragraph 1, but subject to article 52, paragraphs 3 and 4, by giving notice no later than one year after the entry into force of such amendment.

6. The Secretary-General of the United Nations shall circulate to all States Parties any amendment adopted at a meeting of the Assembly of States Parties or at a Review Conference.

#### **Article 54: Authentic texts**

The original of this Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.