

No. 31191

MULTILATERAL

**Convention on the Statute of the Central American Court
of Justice. Concluded at Panama City on 10 December
1992**

Authentic text: Spanish.

*Registered by the General Secretariat of the Central American Integration
System, acting on behalf of the Parties, on 14 September 1994.*

MULTILATÉRAL

**Convention concernant le Statut de la Cour centraméricaine
de Justice. Conclue à Panama le 10 décembre 1992**

Texte authentique : espagnol.

*Enregistrée par le Secrétariat général du Système d'intégration de l'Amé-
rique centrale, agissant au nom des Parties, le 14 septembre 1994.*

[TRANSLATION — TRADUCTION]¹CONVENTION² ON THE STATUTE OF THE CENTRAL AMERICAN COURT OF JUSTICE

STATUTE OF THE CENTRAL AMERICAN COURT OF JUSTICE

The Presidents of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama,

Considering that on December 13, 1991, the Presidents of the Central American Isthmus, signed the Protocol of Tegucigalpa,³ which reforms the Charter of the Organization of Central American States (ODECA),⁴ which constitutes the “Central American Integration System”, and which, in its article 12, established, among other organs of that System, the Central American Court of Justice, whose organization, functioning and attributes shall be governed by its Statute.

Considering that the supreme courts of justice, in their meetings in Guatemala, El Salvador, Honduras and Nicaragua, have demonstrated their deep interest in the creation of the Central American Court of Justice, and have completed important legal works. Of these works, the Draft Statute of the Court is especially important and has been presented to our Governments for their review and approval,

Therefore, we have agreed to sign the following:

STATUTE OF THE CENTRAL AMERICAN COURT OF JUSTICE

*Statement of goals**History*

It has been a strong and lasting desire of the states of the Central American Isthmus that they be recognized as one nation, as this recognition would accord their peoples the full attainment of justice, legal security and general welfare.

In the same manner it has also been an ardent desire that all the states’ differences be resolved in a peaceful and civilized manner, thereby permitting the achievement of the social peace longed for by their peoples.

To that end various efforts have been undertaken, which have made it possible to demonstrate the enduring peaceful attitude of the inhabitants of the Central American states. These efforts resulted in the Central American Court of Justice, or

¹ Translation supplied by the General Secretariat of the Central American Integration System — Traduction fournie par le Secrétariat général du système d’intégration de l’Amérique centrale.

² Came into force on 2 February 1994, i.e., eight days after the date on which the States which had ratified the Tegucigalpa Protocol of 13 December 1991 to the Charter of the Organization of Central American States (OCAS) had deposited their instrument of ratification with the General Secretariat of the Central American Integration System, in accordance with article 48:

<i>Participant</i>	<i>Date of deposit of the instrument of ratification</i>
El Salvador	24 November 1993
Honduras	24 January 1994
Nicaragua	19 January 1994

³ United Nations, *Treaty Series*, vol. 1695, No. A-8048.

⁴ *Ibid.*, vol. 552, p. 15.

the Court of Cartago, which was created by means of the Protocol signed in Washington, D.C. in the year 1907. The Protocol created universal precedents on the establishment of a court of justice with a unifying international character and for which access by individuals before the state would constitute an integral component.

The fortunes of that Court are known. During its ephemeral existence the Court proved what it was by making possible the settlement of differences among states through judicial resolutions that have permitted the maintenance of regional peace during such a convulsive period.

For historical and political reasons which need not be discussed, the Central American Court of Justice was established in a non-permanent form through the Charter of the Organization of Central American States (ODECA). The Presidents of the supreme courts of justice of the respective states act as members and would meet to resolve specific matters presented.

Thereafter, the judicial organs of Central America brought together the interests and intentions of their peoples and states, and during the first meeting of the supreme courts of justice of Central America, held in the City of Guatemala, in March 1989, an agreement was reached, among others, to study a way in which to bring the Central American Court of Justice into being. To achieve that goal the delegation from Guatemala presented a draft convention for the creation of the Central American Court of Justice.

During the second meeting of the supreme courts of justice of Central America, held in the City of San Salvador, in June 1990, it was agreed that said draft convention would be ratified and that the Council of Presidents of the Courts would continue to study it.

During the third meeting, held in Tegucigalpa, in May 1991, a new proposal was presented in which the status of the Draft Convention was reaffirmed. During this meeting, pursuant to resolution VII, the eminent Honduran jurist don Roberto Ramírez, was designated to undertake the preliminary studies that would determine the desirability of establishing the Central American Court.

Doctor Ramírez presented his study at the meeting of the Central American Judicial Council, held in the city of San José, Costa Rica, during the month of November 1991. During the meeting Dr. Ramírez was assigned to draft the Convention for the Creation of the Court and its Statute, in line with the approved principles and elements to be discussed and approved thereafter in the city of Guatemala.

During the current year, the delegates of the Courts have held three meetings in Guatemala, Tegucigalpa and San Salvador, to revise Doctor Ramírez's project. These revisions are reflected in the Statute that we present today.

The success that has impelled the activity of the courts of Central America, during the process of judicial integration of the Isthmus, must be noted since on December 13, 1991, during the XI Meeting of the Presidents [sic] of the Central American Isthmus, the six heads of state of the republics of the Isthmus signed the "Protocol of Tegucigalpa". The Protocol reforms the Charter of the Organization of Central American States (ODECA), forms the "Central American Integration System", and, through its Article 12, establishes the Central American Court of Justice as the organ of the system. The Protocol was duly ratified and deposited by the states of El Salvador, Honduras and Nicaragua.

Given the above, the necessity has arisen to give effect to the work initially prepared by the jurist don Roberto Ramírez and to execute the provisions of Article 12 of the aforementioned Protocol, so that the Statute of the Central American Court may be completed within 90 days following the entry into force of the Protocol which occurred on 23 July of this year.

A jurisdictional power for the Central American States

As discussed above, the creation of the Central American Court of Justice, has been the strong and lasting desire of the Central American countries. It has also become the organ of the Central American Integration System that can prescribe a sentence of a unifying legal character for the resolution of regional conflicts.

Thus the Central American Court of Justice views itself as a regional tribunal, with exclusive jurisdiction over the states of the Isthmus.

The court has absolute competence which excludes every other Tribunal. In addition to hearing conflicts between states, the Court may also hear conflicts between natural or legal persons resident in the area and the governments or organisms of the Central American Integration System.

Organization of the Court

The Court's basic organization is set forth in the Statute and shall be further developed in the Court's own rules. Notwithstanding the above, the Court's minimum number of members and the qualifications and requisites that each member must meet are indicated. These qualifications are equal to those required for the exercise of the highest judicial functions in the member's respective countries.

The election of magistrates to the Court is established by the respective organs or judicial authorities. Once elected, the Magistrates shall exercise their functions with absolute and complete independence for a period of ten years, with the possibility of being reelected. In addition, they shall enjoy the immunities and privileges accorded to the heads of diplomatic missions and at no time shall be permitted to exercise public or administrative duties, other than academic functions.

Although the Court's headquarters are designated in the Statute, the Court may agree to meet and function temporarily in any other place in Central America.

The Court shall exist indefinitely. Its members, and Secretary shall be required to reside in the country where the court is headquartered. The Court shall have a president and a vice-president who will exercise their functions for one year. The Presidency shall be held in succession according to the alphabetical order of the names of the Member States; and the Vice-Presidency may not be held, for any reason, by a Magistrate of the same nationality as the President.

The court's budget shall apportioned in equal parts to the Member States.

Competence

The Court shall have mandatory jurisdiction over disputes and voluntary jurisdiction over questions of law and fact.

As has been noted, the Court shall have competence over a wide range of subject matter. One of its areas of competence shall be as an International Regional

Tribunal. In that capacity it shall hear by petitions as court of sole resort the controversies presented by the states.

Another area of competence shall encompass conflicts that arise between natural or legal persons and a state of an organism of Central American Integration System.

It must be emphasized that the Court's competence includes the authority to try, at the request of a party, conflicts that may arise between the powers of the states, and in cases where judicial verdicts are not respected.

In addition to the competencies already mentioned, the Court is attributed the role of Organ of Permanent Consultation to the Central American courts of Justice. In that role it shall hear the questions presented and shall issue recommendations that facilitate the passage of uniform laws.

At any point in time, the respective chanceries may solicit a compromise among the states.

Conclusions

The creation of the Central American Court of Justice is of critical importance give the politicized period in which the Central American countries find themselves.

It is believed that in order to achieve lasting and durable peace in the Isthmus, a form of jurisdictional control must exist to prevent the states from unjustly asserting rights that they do not have, or becoming arbitrary powers that negate all justice.

The Court's grant of exclusive jurisdiction shall result in the creation of a supranational organ that will permit the resolution of problems of the Central American Integration System in a peaceful and civilized manner.

The Member States' submission to the Court's jurisdiction will limit their sovereignty. This implies that the states must respect the Court's decisions.

The Court's independence and autonomy stem from the delegation of powers by the Member States. In the exercise of its jurisdictional functions the Court examines and controls, through the judicial process, the acts executed by the Member States and by the organs of the Central American Integration System that affect the covenants and the treaties in force among them.

Natural and legal persons whose rights have been affected by the acts of states or organs of the Central American Integration System also have access to the Court.

The supervisory powers conferred upon the "Central American Judicial Council" during the phase prior to the formation an establishment of the Court must be noted in that the Council is granted powers to apply, interpret and execute the provisions of the Statute, and may undertake all necessary efforts to ensure the prompt establishment and functioning of the Court.

The Statute does nothing more than continue the Protocol of Tegucigalpa's recognition of the Council and its participation in the process of Central American judicial integration as evidenced by its work in the area.

Finally, it is worth emphasizing the content of Article 6 of the Statute, which adopts what was established by the Central American Court of Justice, or the Court of Cartago of 1907, and enriches what was established by declaring the Central