



Official Rules of Procedure: International Court of Justice on Migration Issues

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Summary Of Rules of Procedure

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Case

Complaint by African and Maghreb states against the European Union's migration policies and the actions of the Frontex agency

I. Jurisdiction and mission of the Court

Article 36, paragraph 1, of the Statute of the Court provides that the jurisdiction of the Court shall extend to all cases submitted to it by the parties. Thus, the ICJ will seek to settle legal disputes submitted to it by Member States of the United Nations, in accordance with the Charter of the United Nations and the Statute of the ICJ.

The International Court of Justice (ICJ) is hearing an exceptional case in which a coalition of African and Maghreb states accuses the European Union, and more specifically the Frontex agency, of human rights violations in the management of its external borders. The ICJ will therefore be tasked with examining the legal responsibilities of the parties, debating the protection of migrants' rights, and proposing concrete solutions.

II. Composition of the Court

- Judges: three in number
- Two opposing parties: the prosecution and the defense, composed of lawyers representing the countries participating in this tribunal. The latter will have the opportunity to call on witnesses, experts, etc.
- The prosecution is composed of representatives of African and Maghreb countries (e.g., Tunisia, Morocco, Senegal, Nigeria), united in their joint complaint.
- The defense is represented by the European Union and its institutions, in particular the Frontex agency.
- Third parties: witnesses (fictional or based on real reports: migrants, European civil servants, journalists, etc.) or experts may be called to testify by judges before the Court.

III. Working language

English is the only official language of the commission. All documents, testimonies, interventions, and resolutions will be presented in English.

IV. Court procedure

The procedure consists of two main phases: the written procedure and the oral hearing:

1) Indictment or defense file:

A State (represented by its lawyer) must refer the matter to the ICJ by submitting a written application specifying the dispute, the legal issues involved, and the provisional measures requested. In this case, lawyers must clearly state their position before the court, either as defense counsel or as counsel for the prosecution.

The Court must be convinced of the relevance and soundness of the case. The document must be submitted within the time limits and in the form prescribed by the Court.

In the case of "*Challenge to European migration management measures*," the accusation is presented by the accusing countries acting as a coalition, each of which may detail its particular position on certain examples but presenting a common position on the issue of Frontex's actions.

Each party must submit a written legal brief (maximum 1 to 2 pages, Arial 10 font), structured as follows:

- Presentation of the country or institution
- Legal context of the conflict
- Legal arguments in favor of its position
- Requests or recommendations addressed to the Court
- Conclusion

Documents must be clear, structured, and based on legal texts (international treaties, case law, etc.) and reliable evidence.

The written procedure allows for the division of States into two parties: members of the defense and members of the prosecution.

2) Testimony

The jury will then designate a maximum of three witnesses or experts (who may be interpreted by delegates from other commissions, journalists, or supervisors, but not by a delegate from the ICJ) for each party (defendants and plaintiffs), and the lawyers will be responsible for choosing, presenting and questioning them.

3) Closing arguments

This will be delivered on the morning of the first day. Each country will have a limited time of two minutes to present its position. This will allow each lawyer to lay the foundations for their defense or argument. To see how to structure your argument, you will need to follow the method given by the judges.

V. Conduct of debates:

Pleadings:

- Presentation of arguments: this will take place at the beginning of the first day. Each country will have a time limit of two minutes to present its position. This will allow each lawyer to lay the foundations for what they are defending or arguing.

Formal debate:

- After each presentation, the judges may ask questions of the opposing sides in the form of points of information about what one side is accused of or about the lawyers' defenses in this regard.
- The prosecution and defense attorneys may also respond, according to a speaking order limited by the Court, with the defense always having the right to the last word. Informal debate:

- In addition to the formal sessions, there will be opportunities for informal debate and negotiation. This will encourage the exchange of ideas and collaboration, while allowing participants to clarify their points of view.

Contributions from witnesses and experts:

- The judges will be responsible for selecting three witnesses or experts for each side among those proposed by the lawyers. These witnesses/experts will then be presented to the lawyers for both parties. It is the lawyers who will have to prepare these witnesses (choose a person, decide on the profile of the witness they will embody, and prepare them for their testimony) and decide whether to call them to testify in court. At this point in the trial, the lawyers question the witnesses in turn. First, the lawyer(s) who called the witness asks questions to establish the facts or strengthen their argument. Then, the lawyers for the other side take the floor to ask their own questions, often with the aim of contradicting or weakening the testimony. The same applies to experts proposed by the parties for technical or scientific analyses.
- *Interactions with third parties:* Judges and lawyers ask questions directly to witnesses and experts in the form of cross-examination. The parties may request a cross-examination, which is a series of direct questions in which the opposing party seeks to strategically reduce the impact of a witness or expert in order to show that the testimony is potentially unreliable or even insufficient to prove the allegation.

Interventions by Judges:

- Judges will have the right to intervene at any time to ask questions or seek clarification from witnesses or experts. They will ensure that the questions asked and the debate remain respectful and constructive, while maintaining a neutral and non-partisan stance.

Use of evidence:

- Lawyers have to present various types of evidence, such as written documents, witness testimony, expert opinions, or material evidence, to support their arguments. This evidence must be relevant, reliable, and clearly organized in order to demonstrate its connection to the facts presented. Each lawyer must prepare five pieces of evidence and provide them to the judges within the specified time frame. Some evidence may be co-authored by several lawyers from the same side. Once the evidence has been provided, the judges will choose which pieces of evidence will be evaluated during the proceedings, with the exception of certain evidence that may be explicitly requested by one of the sides for presentation.
- During the hearing, evidence will be presented to the judges with an explanation of its relevance. Lawyers must also be prepared to respond to objections from the opposing party in order to defend the validity of their evidence.
- You must follow the methodology that will be shared with you for presenting evidence to the judges and the opposing side.

VI. Deliberation and decision

After the oral proceedings have ended, the Court deliberates in private to reach a decision. Deliberation is followed by a majority vote of the judges present. The final decision is binding and cannot be appealed, except in the event of new information coming to light that would allow for a request for review (subject to the judges' approval).

VII. Enforcement of decisions

The lawyers of the United Nations ICJ are required to enforce the Court's decisions. In the current context, **the matter pending before the ICJ urgently requires a resolution**. The ICJ's verdict is legally binding; in other words, the countries involved, in this case the defendants, are obliged to move toward a solution.

VIII. Final Resolution

Recommendations and Resolutions

- Resolution Text: The verdict could take the form of a resolution text setting out the Court's findings, such as a finding of human rights violations.

Compensation and Reparations:

- Proposals for compensation: If the verdict concludes that harm was caused by Frontex's actions, it could include proposals for compensation.

This could result in recommendations for financial compensation or development projects aimed at repairing the damage caused.

Reparation Mechanisms:

- The verdict could also suggest the creation of reparation mechanisms, such as funds dedicated to compensating countries or communities affected by Frontex's actions.

IX. Code of Conduct

Judges and staff of the ICJ must adhere to the highest standards of ethics and impartiality in the performance of their duties, adhering to the ICJ Code of Conduct, which guarantees the independence and integrity of the judicial body. The key principles are as follows:

- Respect for human rights

Promoting and protecting the fundamental rights of all persons, in particular victims of human rights violations who come forward to testify. Refrain from any form of discrimination based on race, ethnicity, gender, religion, or any other characteristic

- Dignity and integrity

Behave honestly and ethically in all circumstances.

- Participation of victims (witnesses)

Ensure the active and respectful involvement of victims who testify in the justice process.

Respect the choices, needs, and voices of victims.

- Collaboration

Working in partnership with advocates, governments, NGOs, local communities, and other stakeholders to ensure inclusive and effective justice.