

**RESOLUTION
CONCERNING
THE INTERNAL JUDICIAL PRACTICE
OF THE COURT**

(RULES OF COURT, ARTICLE 19)

ADOPTED ON 12 APRIL 1976

The Court decides to revise its Resolution concerning the Internal Judicial Practice of the Court of 5 July 1968 and to adopt the articles concerning its internal judicial practice which are set out in the present Resolution. The Court remains entirely free to depart from the present Resolution, or any part of it, in a given case, if it considers that the circumstances justify that course.

Article 1

(i) After the termination of the written proceedings and before the beginning of the oral proceedings, a deliberation is held at which the judges exchange views concerning the case, and bring to the notice of the Court any point in regard to which they consider it may be necessary to call for explanations during the course of the oral proceedings.

(ii) In cases where two exchanges of oral arguments take place, after the first such exchange has been concluded, a further deliberation is held having the same objects.

(iii) The Court also meets in private from time to time during the oral proceedings to enable judges to exchange views concerning the case and to inform each other of possible questions which they may intend to put in the exercise of their right under Article 61, paragraph 3, of the Rules.

Article 2

After the termination of the oral proceedings, an appropriate period is allowed to the judges in order that they may study the arguments presented to the Court.

Article 3

(i) At the expiration of this period a deliberation is held at which the President outlines the issues which in his opinion will require discussion and decision by the Court. Any judge may then comment on the statement or call attention to any other issue or question which he considers relevant, and may at any time during or at the close of the deliberation cause to be distributed a text formulating a new question or reformulating a question already brought to notice.

(ii) During this deliberation any judge may comment on the pertinence of any issues or questions arising in the case. The President also invites judges to indicate their preliminary impressions regarding any issue or question.

(iii) Judges will be called on by the President in the order in which they signify their desire to speak.

Article 4

(i) At a suitable interval of time after this deliberation, each judge prepares a written note which is distributed to the other judges.

(ii) The written note expresses the judge's views on the case, indicating, inter alia:

(a) whether any questions which have been called to notice should be eliminated from further consideration or should not, or need not, be decided by the Court;

(b) the precise questions which should be answered by the Court;

(c) his tentative opinion as to the answers to be given to the questions in (b) and his reasons therefor;

(d) his tentative conclusion as to the correct disposal of the case.

Article 5

(i) After the judges have had an opportunity to examine the written notes, a further deliberation is held, in the course of which all the judges, called upon by the President as a rule in inverse order of seniority, must declare their views. Any judge may address comments to or ask for further explanations from a judge concerning the latter's statement declaring his views.

(ii) During this deliberation any judge may circulate an additional question or a reformulation of a question already brought to notice.

(iii) On the request of any judge the President shall ask the Court to decide whether a vote shall be taken on any question.

Article 6

(i) On the basis of the views expressed in the deliberations and in the written notes, the Court proceeds to choose a drafting committee by secret ballot and by an absolute majority of votes of the judges present. Two members are elected who should be chosen from among those judges whose oral statements and written notes have most closely and effectively reflected the opinion of the majority of the Court as it appears then to exist.

(ii) The President shall ex officio be a member of the drafting committee unless he does not share the majority opinion of the Court as it appears then to exist, in which case his place shall be taken by the Vice-President. If the Vice-President is ineligible for the same reason, the Court shall proceed, by the process already employed, to the election of a third member, in which case the senior of the elected judges shall preside in the drafting committee.

(iii) If the President is not a member of the drafting committee, the committee shall discuss its draft with him before submitting it to the Court. If the President proposes amendments which the committee does not find it possible to adopt, it shall submit the President's proposals to the Court together with its own draft.

Article 7

(i) A preliminary draft of the decision is circulated to the judges, who may submit amendments in writing. The drafting committee, having considered these amendments, submits a revised draft for discussion by the Court in first reading.

(ii) Judges who wish to deliver separate or dissenting opinions make the text thereof available to the Court after the first reading is concluded and within a time-limit fixed by the Court.

(iii) The drafting committee circulates an amended draft of the decision for the second reading, at which the President enquires whether any judge wishes to propose further amendments.

(iv) Judges who are delivering separate or dissenting opinions may make changes in or additions to their opinions only to the extent that changes have been made in the draft decision. During the second reading they inform the Court of any changes in or additions to their opinions which they propose to make for that reason. A time-limit is fixed by the Court for the filing of the revised texts of separate or dissenting opinions, copies of which are distributed to the Court.

Article 8

(i) At or after a suitable interval following upon the termination of the second reading, the President calls upon the judges to give their final vote on the decision or conclusion concerned in inverse order of seniority, and in the manner provided for by paragraph (v) of this Article.

(ii) Where the decision deals with issues that are separable, the Court shall in principle, and unless the exigencies of the particular case require a different course, proceed on the following basis, namely that:

(a) any judge may request a separate vote on any such issue;

(b) wherever the question before the Court is whether the Court is competent or the claim admissible, any separate vote on particular issues of competence or admissibility shall (unless such vote has shown some preliminary objection to be well-founded under the Statute and the Rules of Court) be followed by a vote on the question of whether the Court may proceed to entertain the merits of the case or, if that stage has already been reached, on the global question of whether, finally, the Court is competent or the claim admissible.

(iii) In any case coming under paragraph (ii) of this Article, or in any other case in which a judge so requests, the final vote shall take place only after a discussion on the need for separate voting, and whenever possible after a suitable interval following upon such discussion.

(iv) Any question whether separate votes as envisaged in paragraph (ii) of this Article should be recorded in the decision shall be decided by the Court.

(v) Every judge, when called upon by the President to record his final vote in any phase of the proceedings, or to vote upon any question relative to the putting to the vote of the decision or conclusion concerned, shall do so only by means of an affirmative or negative.

Article 9

(i) Although because of illness or other reason deemed adequate by the President, a judge may have failed to attend part of the public hearing or of the Court's internal proceedings under Articles 1 to 7 inclusive of this Resolution, he may nevertheless participate in the final vote provided that :

(a) during most of the proceedings, he shall have been, or remained, at the seat of the Court or other locality in which the Court is sitting and exercising its functions for the purposes of the case under paragraph 1 of Article 22 of the Statute;

(b) as regards the public hearing, he shall have been able to read the official transcript of the proceedings;

(c) as regards the internal proceedings under Articles 1 to 7 inclusive, he shall have been able at least to submit his own written note, read those of the other judges, and study the drafts of the drafting committee; and

(d) as regards the proceedings as a whole, he shall have taken a sufficient part in the public hearing and in the internal proceedings under Articles 1 to 7 inclusive to enable him to arrive at a judicial determination of all issues of fact and law material to the decision of the case.

(ii) A judge who is qualified to participate in the final vote must record his vote in person. In the event of a judge who is otherwise in a fit condition to record his vote being unable because of physical incapacity or other compelling reason to attend the meeting at which the vote is to be taken, the vote shall, if the circumstances permit, be postponed until he can attend. If, in the opinion of the Court, the circumstances do not permit of such a postponement, or render it inadvisable, the Court may, for the purpose of enabling the judge to record his vote, decide to convene elsewhere than at its normal meeting place. If neither of these alternatives is practicable, the judge may be permitted to record his vote in any other manner which the Court decides to be compatible with the Statute.

(iii) In the event of any doubt arising as to whether a judge may vote in the circumstances contemplated by paragraphs (i) and (ii) hereof - and if this doubt cannot be resolved in the course of discussion - the matter shall, upon the proposal of the President, or at the request of any other Member of the Court, be decided by the Court.

(iv) When a judge casts his final vote in the circumstances contemplated by paragraphs (i) and (ii) of the present Article, paragraph (v) of Article 8 shall apply.

Article 10

The foregoing provisions shall apply whether the proceedings before the Court are contentious or advisory.