

Nicaragua v. Honduras (1988)

On 28 July 1986, Nicaragua instituted proceedings against Costa Rica and Honduras, respectively, alleging various violations of international law for which the two States bore legal responsibility, particularly on account of certain military activities directed against the Nicaraguan authorities by the contras operating from their territory.

Honduras informed the Court that in its view the Court had no jurisdiction to deal with the case and, after a meeting with the President, the Parties agreed that the questions of jurisdiction and admissibility would be dealt with at a preliminary stage of the proceedings. Once the Parties had filed their written pleadings and taken part in hearings devoted to those questions, the Court delivered its Judgment in the case on 20 December 1988. Nicaragua had relied, as the basis of the jurisdiction of the Court, both on Article XXXI of the Inter American Treaty for the Peaceful Settlement of Disputes (known as the "Pact of Bogotá") of 1948 and on the declarations of acceptance of the compulsory jurisdiction of the Court made by the Parties under Article 36, paragraph 2, of the Statute. The Court found that the Pact of Bogotá conferred jurisdiction upon it. It dismissed the two arguments asserted successively by Honduras in that regard, namely that Article XXXI of the Pact had to be supplemented by a declaration of acceptance of compulsory jurisdiction or that it could be so supplemented but need not be. The Court found that the first argument was incompatible with the actual terms of Article XXXI. With regard to the second argument, the Court had to consider the divergent interpretations of Article XXXI that were proposed by the Parties, and set aside the interpretation of Honduras according to which, *inter alia*, effect should be given to the reservations to Honduras's acceptance of the jurisdiction of the Court that had been introduced into its declaration of 1986. On that point, the Court found that the commitment in Article XXXI of the Pact was independent of the declarations of acceptance of its jurisdiction.

The Court moreover rejected the four objections raised by Honduras to the admissibility of the Application, of which two had a general character and two were derived from the Pact of Bogotá. Subsequently, and after the proceedings on the merits had been initiated and Nicaragua had filed its Memorial, and after the Court, at the request of the Parties, had postponed the date for the fixing of the time limit for the presentation of the Counter Memorial of Honduras, the Agent of Nicaragua, in May 1992, informed the Court that the Parties had reached an out of court agreement and did not wish to go on with the proceedings. On 27 May 1992, the Court made an Order recording the discontinuance of the proceedings and directing the removal of the case from the General List.