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**Published on the website on May 2024**

**Decree Law No. (2) of 1989 approving Decision No. 5/13 - S (S.A) issued by the Fifth Islamic Summit Conference establishing the International Islamic Court of Justice**

We, Isa bin Salman Al Khalifa, Emir of the State of Bahrain.

Having reviewed the Article (37) of Constitution;

Emiri Order No. (4) of 1975;

And the ratification by the State of Bahrain of the Charter of the Organisation of the Islamic Conference on 29 June 1972;

And Decision No. 113/5-S (ق. أ) promulgated by the Fifth Islamic Summit Conference establishing the International Islamic Court of Justice;

And upon the submission of the Minister of Foreign Affairs,

And after the approval of the Council of Ministers;

**Hereby Decree the following Law:**

**Article One**

In accordance with Decision No. 13/5-S (ق. أ) promulgated by the Fifth Islamic Summit Conference held in the State of Kuwait from 26 to 29 Jumada al-Awwal 1407 A.H., corresponding to 26 to 29 January 1987, which includes the addition of a fourth paragraph numbered (D) to Article Three of the Charter of the Islamic Conference establishing the International Islamic Court of Justice, and the Statute of this Court attached to this Law has been ratified.

**Article Two**

The Ministers - each within his jurisdiction- shall implement this Law, and it shall come into force upon its publication in the Official Gazette.

**Emir of the State of Bahrain**

**Isa bin Salman Al Khalifa**

**Issued at Riffa Palace:**

**On 24 Jumada Al-Akhir 1409 A.H.**

**Corresponding to 1 February 1989**

Decision No. 113/5-S (ق. أ) regarding the establishment of the International Islamic Court of Justice

The Fifth Islamic Summit Conference (Islamic Solidarity Session) held in Kuwait (State of Kuwait) from 26 to 29 Jumada al-Awwal 1407 A.H. (corresponding to 26-29 January 1987),

Recalling Decision No. 11/3-S of the Third Islamic Summit, which approved the establishment of an International Islamic Court of Justice,

In harmony with the provisions of the Charter of the Organization of the Islamic Conference and with the desire to create a major judicial body which will settle disputes in accordance with the provisions of the Islamic Shariah and the rules of public international law, with a view to sustaining and purifying fraternal relations,

Expressing its gratitude for the efforts made by the experts of the competent committee in cooperation with the General Secretariat to achieve what was indicated by the Fourth Islamic Summit regarding the preparation of the final version of the draft Statute of the Court,

Having reviewed the Explanatory Memorandum submitted by the General Secretariat, to which the final version of the Draft Statute was attached:

1- Each approved draft of the Statute of the International Islamic Court of Justice is agreed on the basis of the optional jurisdiction of its provisions.

2- It was also decided to add a fourth paragraph, "Paragraph D", to Article Three of the Charter, which should read as follows: "The International Islamic Court of Justice shall exercise its functions in accordance with its Statute annexed to the present Charter, of which it shall be an integral part".

3- Invites Member States to ratify Article Three after its amendment and to deposit their ratification documents with the General Secretariat.

4- The General Secretariat shall be responsible for contacting the Member States to implement this Decision.

**Summary of the original amended text The statute of the International Islamic Court of Justice, the establishment of the court and its headquarters**

**Article One**

The international Islamic court of justice is the principal judicial organ of the organisation of the Islamic Conference. it shall be based on Islamic shariah and shall function independently, in accordance with -the provisions of the charter of the organisation of the Islamic Conference and of the present statute.

**Article Two**

a) The seat of the court shall be established at the city of Kuwait.

b) The court may when necessary, sit and exercise its functions in any member state of the organisation of the Islamic Conference.

**Formation and Membership of The Court**

**Article Three**

a) The Court shall be composed of seven judges who shall be elected by the Islamic Conference of Foreign Ministers for four years and may be re-elected for another term only. The Court shall elect its President and Vice-President from among its members.

b) No more than one member may be elected who is a national of one country.

c) A person who for the purposes of membership of the Court could be regarded as a national of more than one Member State shall be deemed to be a national of the one in which he exercises civil and political rights.

**Fourth Article**

To be eligible for membership of the Court, a candidate must be a Muslim of high moral character, and a national of one of the Member States of the Organisation provided that he is at least forty years of age, a Shari'ah jurist of recognised competence and experienced in international law and possesses the qualification required in his own country for appointment to the highest Ifta or judicial offices.

**Fifth Article**

The members of the' Court shall be elected through sebret ballot by the Conference of Foreign Ministers from a list of nominees in accordance with the following provisions:

a) The Secretary General of the Organisation of the Islamic Conference shall address a written request to the Member States of the Organisation fixing the date for the elections at least three months in advance and inviting them to submit within two months, the nominations of persons who meet the conditions prescribed by Article four of the present Statute.

b) No Member States of the Organisation may nominate more than three persons, of whom one may be of its own national.

c) The Secretary General shall prepare a list in alphabetical order of all the persons thus nominated and shall submit it to the Conference of Foreign, Ministers, as a preliminary step for the election of the Court members at the appointed time.

d) The Conference of Foreign Ministers holds a special session to elect the members of the Court, and the one who obtains an absolute majority of the votes of all members of the organization is considered successful.

e) When electing the President and the members of the Court, the Conference of Foreign Ministers shall take into consideration the regional distribution and the language representation of the Member States.

f) If, after the first voting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third vote shall take place; if any seat still remains unfilled, the Conference of Foreign Ministers shall draw lots to select the remaining member from among the candidates who will have obtained the majority of votes.

**Article Six**

a) If a member of the Court wishes to resign, he shall submit his resignation in writing to the President of the Court, and if the President wishes to resign, he shall submit it in writing to the Conference of Foreign Ministers, through the Secretary-General, and his deputy shall temporarily replace him until a new President is appointed by the Conference.

b) No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions. In this case, the Court the Court can only make a ruling after hearing the member involved and taking cognizance of his remarks in a closed session. The Court's decision shall be final.

c) The resignation or dismissal of the President or any member of the Court shall be formally notified to the Secretary General by the Registrar of the Court. This notification makes the place vacant.

**Article Seven**

a) Vacancies, whatever their causes, shall be filled by the same method as provided for in Article Five.

b) A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

**Obligations of the Members of the Court**

**Article Eight**

No member of the Court may:

a) exercise any political or administrative function or engage in any other occupation or perform any activity that may be incompatible with the dignity and independence of the judicial office.

b) act as counsel, agent, advocate, or arbitrator in any case or engage in any other work of a professional nature that may conflict with his membership of the Court.

c) participate in the decision of any case in which he has previously taken part as a member of a national or international court or of a commission of enquiry or in any other capacity.

Any dispute arising from the application of this article shall be settled by the decision of the Court.

**Article Nine**

Every member of the Court shall, at the first session in open Court after this election, take the following oath:

"In the Name of God Almighty, I swear to fear only God in the discharge of my duties, to act impartially in accordance with the provisions of Islamic Shari'ah and the principles of Islam and to abide by the provisions of this Statute and those of the Charter of the Organisation of the Islamic Conference".

**Immunities and Privileges**

**Article Ten**

a) The International Islamic Court of Justice, its members and personnel shall enjoy in the countries of Member States the immunities and privileges prescribed by the 1976 Agreement on Immunities and Privileges of the Organisation of the Islamic Conference.

b) The Secretary General of the Islamic Conference shall conclude with the headquarters country an agreement regulating the relationship between the Court and the said country, taking into consideration the international rules of immunities and privileges.

**Article Eleven**

a) The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

b) The President of the Court, its Registrar and its personnel shall reside at the seat of the Court.

**Article Twelve**

a) The Court shall remain permanently in session except during the judicial vacations.

b) The dates and duration of such vacations shall be fixed by the Court.

c) Members of the Court are entitled to periodic leave the dates and duration of which shall be fixed by the President of the Court.

d) Members of the Court shall be bound, unless they are on official leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

**Article Thirteen**

The full Court shall sit except when it is expressly provided otherwise in the present Statute,subject to the condition that the number of Judges available to render the judgements shall not be less than five.

**Article Fourteen**

a) If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he may withdraw after the approval of the President.

b) If the President considers that, for some special reason, one of the members of the Court should not sit in a particular case, he shall give him notice accordingly and the judge concerned shall not sit in the case.

c) If, in any such case, the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

**Chambers**

**Article Fifteen**

a) The Court may form one or more chambers composed of three or more judges for dealing with particular categories of cases.

b) The Court may form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

c) The Court may form annually a chamber composed of three judges which, at the request of the parties, may hear and determine cases by summary procedure.

**Article Sixteen**

a) Judges of the nationality of each of the parties to a case shall retain their right to sit in the case before the court and take part in the decision on terms of complete equality with their colleagues.

b) If the Court include upon the Bench judges of the nationalities of the parties, such judges shall sit in full court. If the Court includes upon the Bench no judges of the nationalities of the parties each party may proceed to choose a judge from among the nationals of member-states subject to the requirements for membership of the Court.

c) Should there be several parties in the same interest, they shall, for the purpose of the preceding two paragraphs, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

**Salaries and other Expenses of the Court**

**Article Seventeen**

a) Each member of the Court shall receive en annual salary and the President and Vice-President shall receive special annual allowances.

b) Ad-hoc judges shall receive, in addition to travel costs, compensation for each day they spend in the headquarters country while taking part in the Court proceedings.

c) Salaries and allowances prescribed in paragraph (a) shall be fixed by the Conference of Foreign Ministers which shall also lay down the conditions under which retirement pensions and travelling expenses may be given and frame the financial regulations of the Court.

d) The salaries, allowances and compensations prescribed in paragraphs (a) and (b) shall be free of all taxation in the headquarters country and in all Member States of the Organization of the Islamic Conference.

**Article Eighteen**

The Court shall have its autonomous budget and the expenses of the Court shall be borne by the Member States of the Organization of the Islamic Conference in proportion to their respective contributions to the budget of the Organization.

**Rules of Procedure**

**Article Nineteen**

1.     The Court shall lay down its own rules of procedure.

2.     The Rules of Procedure may provide for experts to sit with the Court without the right to vote.

**Registrar and other Staff of the Court**

**Article Twenty**

a) The Court shall be assisted, during its session, by a Registrar who shall prepare the minutes and sign them along with the President.

b) The Rules of Procedure shall comprise provisions for the selection and appointment of the Registrar, the text of the oath he shall take as he assumes his functions, provisions for the appointment of an Assistant Registrar and other officers of the Court as well as the administrative rules and procedures of the Court.

**Powers of the Court**

**Article Twenty One**

a) Member States of the Organization of the Islamic Conference alone have the right to appear before the Court.

b) Any other States may refer to the Court cases to which they are parties under the conditions to be laid down by the Conference of Foreign Ministers provided that such states shall accept the competence of the Court and declare their prior commitment to abide by the decisions of the Court. In such cases, the Court shall fix the amount which these parties are to contribute towards the expenses of the Court.

**Article Twenty Two**

a) The Court, subject to, and in conformity with; the present Statute, may request of international organizations information it deems relevant to cases before it, and shall receive the information presented by such organizations on their own initiative.

b) Whenever the construction of a constituent instrument of an international organization or of an International Convention adopted there- under is in question in a case before the Court, the Registrar of the Court shall go notify the international organization concerned and shall communicate to it copies of all the written proceedings.

**Intervention**

**Article Twenty Three**

a) Should a Member State of the Organization of the Islamic Conference consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

b) If the state is not a member of the Organization of the Islamic Conference, it shall declare in advance its commitment to the court’s rulings and the parties to the conflict shall not object to its intervention.

c) It shall be for the Court to decide upon the request in the two cases.

**Article Twenty-Four**

Whenever the construction of an international convention is in question in the case before the Court, the Registrar shall forthwith notify all the member States of the Organization of the Islamic Conference signatory to such a convention, and every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgement will be equally binding upon it.

**Juridiction of the Court**

**Article Twenty Five**

The jurisdiction of the Court shall comprise:

a) Cases which the concerned Member States of the Organization of the Islamic Conference agree to refer to it.

b) Cases whose referral to the Court is provided for in any treaties or conventions in force.

c) Interpretation of a bilateral or multilateral treaty or agreement.

d) Any question of international law.

e) The existence of any fact which, if established, would constitute a broach of international obligation.

f) The nature or extent of the reparation to be made for the breach of an international obligation.

**Acceptance of the Jurisdiction is Mandatory**

**Article Twenty Six**

a) Member States of the Organization may declare that they recognise as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes, inter alia, the interpretation of Islamic Shariah principles, the construction of treaties and the questions of international law. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of one or several States, or for a certain time. Such declarations shall be deposited with the Secretary General of the Organization of the Islamic Conference who shall transmit copies thereof to the Registrar of the Court and to all Member States of the Organization.

b) In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

**Applicable Law**

**Article Twenty Seven**

a) Islamic Shari'ah shall be the main source on which the International Islamic Court of Justice shall base its cases.

b) The Court shall be guided by international law, bilateral or multilateral conventions, international practice accepted as law, general principles of law, judgements rendered by most international courts and the teachings of the highly qualified publicists of the various States.

**Languages of the Court**

**Article Twenty Eight**

a) Arabic, as the language of the Holy Qur'an shall be the first official language of the Court, along with English and French.

b) The Court may, at the request of one of the parties, authorize a non-official language to be used, provided that such a party shall pay the expenses of translation or interpretation into one of the officiel languages.

c) The decision of the Court shall be given in the three official languages.

**Procedure of Legal Action**

**Article Twenty Nine**

a) Cases are brought to court in one of two ways: Either by a written request directed by one of the member states to the court’s registrar, or by informing the registrar of an agreement made between two or more states to submit their dispute to the court. In both cases, the request and agreement must include a definition of the subject matter and a designation of the parties thereto, along with a presentation of the aspects on which the case is based and all data and evidence. The document, the signature of the legal representative of the plaintiff parties, or the signature of their diplomatic representatives in the country of headquarters.

b) The Registrar shall immediately notify the request or agreement to the concerned parties and shall also inform the other member states of the Organization of the Islamic Conference through its Secretary General.

**Procedures**

**Article Thirty**

The procedure of the International Islamic Court of Justice shall consist of two parts, written and oral:

a) Written procedures: It includes what the parties to the lawsuit submit to the court and to the opponents, including memorandums, regulations, and responses. It also includes all papers and documents that support the lawsuit. This is done through the court registrar in accordance with the order and dates determined by the court.

b) The court does not issue its decision to take any temporary measure, except after providing the other parties with the opportunity to submit their comments on this measure, and immediately after the issuance of the decision, it is notified to all parties to the case.

c) The court may amend or cancel the temporary measure if the circumstances that required it change, taking into account the provisions of the previous paragraph.

**Representation of the Parties**

**Article Thirty-Four**

a) The parties to the dispute are represented before the court by authorized agents, and these parties may seek the assistance of consultants and lawyers.

b) Agents of the parties to the dispute before the court, advisors and lawyers shall enjoy the immunities and privileges necessary to perform the tasks assigned to them.

**Failure to Appear Before the Court**

**Article Thirty-Five**

Whenever one of the parties does not appear before the Court, the other party may call upon the Court to proceed with the case. The Court must, before doing so, satisfy itself that it has jurisdiction and that the claim is well founded in fact and law.

**Conduct of the Hearing**

**Article Thirty-Six**

a) The hearing shall be made under the control of the President or, if he is unable so preside of the Vice-President. If neither is able to preside, the Senior judge shall preside.

b) The hearing in Court shall be public, unless the Court shall decide otherwise; the parties to the dispute may request that the public be not admitted.

c) Kinutes shall be made of each hearing and signed by the Registrar and the President of the Court.

d) These minutes alone shall be authentic.

**Delivering of Judgements**

**Article Thirty-Seven**

a) When the agents, counsel and advocates have completed their presentation of the case, the President shall declare the hearing closed. Every document submitted by one party shall be sent to the other party, an identical copy of it to the original. The document may not be withdrawn except with the consent of the opposing party or with written permission from the president of the court after saving a copy of it in the case file.

b) Verbatim proceedings: It includes the pleadings before the court, the testimonies it hears, expert statements, and the opinions of advisors.

**Judicial Announcements**

**Article Thirty-One**

a) For the service of all notices upon parsons other than the agents, counsel and advocates, the Court shall apply direct to the Government of the State upon whose territory the notice has to be served.

b) The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

**Conduct of the Case and Taking of Evidence**

**Article Thirty-Two**

a) In accordance with the present Statute, the Court shall make orders for the conduct of the case, decide the form and time in which each party must conclude its arguments and make all arrangements connected with the taking of evidence.

b) The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

c) The Court may at any time entrust any individual, body, bureau, commission or other organisation it may select with the task of carrying out an enquiry or giving an expert opinion.

d) During the hearing, any relevant questions may be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure.

e) After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side gives its consent.

**Interim Measures**

**Article Thirty-Three**

a) The court may decide - until the case is decided - any temporary measure it deems necessary to take to preserve the right of one of the parties whenever it deems that the circumstances require it.

b) The court withdraws to deliberate on the ruling, and its deliberations are confidential.

c) The court decides on all issues with the opinion of the majority of the judges present, and the vote of the president or his representative is the casting vote.

d) The ruling states the reasons on which it was based and includes the names of the judges who participated in issuing it.

e) if the ruling was not issued in whole or in part by unanimous consent of the judges, then each judge has the right to record his own opinion.

f) The president and the court registrar sign the ruling and then it is read in a public session after properly notifying the agents.

**Binding Force of the Judgement**

**Article Thirty-Eight**

The decision of the Court shall have no binding force except between the parties and in respect of that particular case.

**Finality and Construction of the Judgement**

**Article Thirty-Nine**

a) The judgement is final and must not be challenged.

b) In the event of dispute as to the meaning or scope of the judgement, the Court shall construe it upon the request of any party.

c) In the event of refusal by any party to execute the judgement, the matter shall be referred to the Conference of Foreign Ministers.

**Revision of a Judgement**

**Article Forty**

a) An application for revision of a judgement may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

b) The proceedings for revision shall be opened by a judgement of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision and declaring the application admissible on this ground.

c) The Court may require previous compliance with the terms of the judgement before it admits proceedings in revision.

d) The application for revision must be mado, at the latest, within six months of the discovery of the new fact.

e) No application for revision may be made after the lapse of ten years from the date of the judgement.

**Costs**

**Article Forty-One**

Each party to the case shall bear its own costs and expenses required by the trial unless the court decides otherwise.

**Advisory Opinions**

**Article Forty-Two**

The Court may give, an advisory opinion on any legal question unrelated to a case before it, at the request of any organ that may be so authorized by the Conference of Foreign Ministers.

**Article Forty-Three**

a) The issue about which the court is examining it shall be presented to it in a written request that includes an accurate statement of it, accompanied by all documents that may help in clarifying it.

b) The Registrar of the Court shall take the initiative to inform all member states of the organization that the request for an advisory opinion has been submitted, and that they can provide information about the question being investigated, and that the Court is also prepared to receive its data in a public session held for this purpose.

c) The Court may request the submission of sufficient data from any member state of the organization or from any other international body whose opinion it deems useful on the matter, by a special and direct request, while informing it of its readiness to hear oral statements as well if it so desires.

d) If a state that has the right to appear before the court does not receive the notification referred to in the previous paragraph, it may express its desire to submit a written or oral statement, and the court will decide on that.

e) After submitting the written and oral statements, all member states of the organization shall have the opportunity to comment on those statements, in the manner and at the time determined by the President of the Court, and the Registrar shall send copies of the comments to the countries that have previously submitted the statements.

**Article Forty-Four**

a- The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary General and all the Member States of the Organization of tho Islamic Conference and to the international organisations concerned.

b- The Registrar of the Court shall communicate copies of the advisory opinion thus delivered to the Secretary General and the Member States of the Organization of the Islamic Conference and the international organizations having presented statements on the requested advisory opinion.

**Article Forty-Five**

In delivering its advisory opinions, the Court may be guided in addition to the above, by such Articles of the present Statute as it may deem applicable.

**Article Forty-Six**

The Court may undertake through a Committee of eminent personalities or through its senior officials mediation, conciliation and arbitration in the differences arising between two or more of the Member States of the Organization of the Islamic Conference if the disputants so desire, or if it is so requested by the Islamic Summit or the Islamic Conference of Foreign Ministers, by consensus.

**Publication of Judgements and Advisory Opinions**

**Article Forty-Seven**

a) The Registrar shall compile the Court judgements, legal opinions and orders and publish them in successive collections.

b) The Court may instruct its Registrar to publish any other collections of orders, minutes and documents submitted to it.

**Amendments to the Statute**

**Article Forty-Eight**

a) The provisions of Article (11) of the Charter shall be applicable to the amendments to the present Statute.

b) The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary General for consideration in accordance with the preceding paragraphs.

c) The Secretary General shall submit any proposals for amendments to the present Statute to the Court for comments.

**Entry Into Force**

**Article Forty-Nine**

The present Statute shall come into force upon ratification thereof by two-thirds majority of Member States as provided for in Article (11) of the Charter.

**Article Fifty**

The present Statute has been written in the three official languages of the Organization, which are all equally authentic. In the event of differences as to its interpretation or application, the Arabic language shall prevail.