

SEPARATE OPINION OF JUDGE PARRA-ARANGUREN

1. Notwithstanding my vote for the operative part of the Order, with the exception of paragraph 2, I consider it necessary to make the following observations.

2. Preliminary objections are regulated by Subsection 2 of Section D within Part III of the Rules of Court. Article 79, paragraph 1, provides as follows:

“Any objection by the respondent to the jurisdiction of the Court or to the admissibility of the application, or other objection the decision upon which is requested before any further proceedings on the merits, shall be made in writing within the time-limit fixed for the delivery of the Counter-Memorial.”

3. Paragraph 7 of the same Article 79 adds:

“After hearing the parties, the Court shall give its decision in the form of a judgment, by which it shall either uphold the objection, reject it, or declare that the objection does not possess in the circumstances of the case, an exclusively preliminary character. If the Court rejects the objection or declares that it does not possess an exclusively preliminary character, it shall fix time-limits for the further proceedings.”

4. The Court has no discretionary powers to depart from the Rules established by Article 79. The present proceedings have not yet reached the stage of preliminary objections. Therefore, when deciding upon a request for provisional measures, in my opinion the Court can neither make its final determination on jurisdiction nor order the removal of the case from the Court's List.

(Signed) Gonzalo PARRA-ARANGUREN.
