

# **INTERNATIONAL LAW CASE NOTES**



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# The Republic of Nicaragua v United States (Merits) (1986)

## - Court details

International Court of Justice (ICJ).<sup>1</sup>

## - Procedural history

This case was heard for the first instance in the ICJ.<sup>2</sup>

## - Facts

The United States of America had a history of interference in Nicaraguan internal politics since the turn of the twentieth century.<sup>3</sup> In the 1970s the United States backed government of Nicaragua was overthrown by the Sandinista (FSLN) movement. A popular uprising brought the FSLN to power in 1979. The United States had long been opposed to the socialist FSLN, and after the revolution the Carter administration moved quickly to support the Somocistas (the opposition) with financial and material aid. When Ronald Reagan took office, he augmented the direct support to an anti-Sandinista group, called the Contras, which included factions loyal to the former United States backed dictatorship. When Congress prohibited further funding to the Contras, Reagan continued the funding through arms sales that were also prohibited by Congress.<sup>4</sup>

## - Issues

Nicaragua argued that:

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1 *The Republic of Nicaragua v United States (Merits)* (1986).

2 Ibid.

3 Ibid.

4 Ibid.

1. The United States, in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Nicaragua, had violated its treaty obligations to Nicaragua under Article 2 of the United Nations Charter; Articles 18 and 20 of the Charter of the Organization of American States; Article 8 of the Convention on Rights and Duties of States; Article I of the Convention concerning the Duties and Rights of States in the Event of Civil Strife.

2. The United States had breached international law by:

- Violating the sovereignty of Nicaragua by armed attacks against Nicaragua by air, land and sea; incursions into Nicaraguan territorial waters; aerial trespass into Nicaraguan airspace and efforts by direct and indirect means to coerce and intimidate the Government of Nicaragua
- Using force and the threat of force against Nicaragua
- Intervening in the internal affairs of Nicaragua
- Infringing upon the freedom of the high seas and interrupting peaceful maritime commerce
- Killing, wounding and kidnapping citizens of Nicaragua.<sup>5</sup>

Nicaragua demanded that all such actions cease and that the United States had an obligation to pay reparations to the government for damage to their people, property, and economy.<sup>6</sup>

The United States refused to participate in the proceedings after the Court rejected its argument that the ICJ lacked jurisdiction to hear the case. The United States argued that the ICJ "had neither the jurisdiction nor the competence to render" a decision.<sup>7</sup>

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5 Ibid.

6 Ibid.

7 Ibid.

**- Reasoning / Decision (commentary)**

Despite the United States objections the ICJ concluded that the United States was still subject to the ICJ's jurisdiction. The ICJ ruled that it had jurisdiction in the case on the basis of either Article 36 (i.e. compulsory jurisdiction) or the 1956 Treaty of Friendship, Commerce and Navigation between the United States and Nicaragua.<sup>8</sup>



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<sup>8</sup> Ibid.