



Temple of Preah Vihear (Cambodia v. Thailand) (1961)

ARGUED: 23 November 2025

DECIDED: 24 November 2025

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4 The Dissent was signed by and agreed to by Justice Hoving of the Republic of South Africa and
5 Justice Murphy of Tunisia.

6 Jurisdiction

7 The majority has decided that the Court does have jurisdiction over the case before us; however,
8 we, the Justices from Tunisia and South Africa, respectfully dissent.

9 The Majority uses Article 36 of the Statute of the Court, which states that, "In the event of a
10 dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court."
11 These Articles can also work in both ways, as such it is the discretion of the Court to interpret the Statute
12 of the Court to determine jurisdiction of all matters before it. This Statute is broad and vague for the
13 Court to interpret. However, it is in our opinion that if the Court needs to interpret if it has jurisdiction
14 over the matter, then it can not contradict anything in the current Statute.

15 Article 36 (2) states the following: "The states parties to the present Statute may at any time de-
16 clare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any
17 other state accepting the same obligation. . ." Thailand had withdrawn their consent that acknowl-
18 edges the Court would have Jurisdiction, and it is within their rights to do so. The Statute is clear when
19 it says that states, "may at any time declare that they recognize as compulsory *ipso facto* and without
20 special agreement," if States can at any time give the Court jurisdiction they can also withdraw it at any
21 time. A Member State has the authority to withdraw their consent to the jurisdiction of the Court, which
22 is a foundation in all agreements between parties. Each State has rights, and one of the most critical
23 rights that ensure their sovereignty is the right of self-determination. This right is stated in the Char-
24 ter of the United Nations, Article 1 (2) which states that "[t]o develop friendly relations among nations
25 based on respect for the principle of equal rights and self-determination of peoples, and to take other
26 appropriate measures to strengthen universal peace." Thailand as a sovereign state has the absolute
27 and unquestionable right to give and withdraw consent to this Court at any time. It is not within the
28 purview of the Court to supersede these sovereign rights and force Thailand into litigious action.

29 The Majority is in agreement with Cambodia on the basis of Article 36 (4), which states "[s]uch
30 declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit
31 copies thereof to the parties to the Statute and to the Registrar of the Court." The Majority relies on the
32 Thai Declaration of 1950, which renewed its 1929 Agreement and accepted the jurisdiction of the Per-
33 manent Court of International Justice (PCIJ), the predecessor of the current Court. Thailand renewed
34 the 1929 Declaration in May 1940, and also in May 1950, each renewal lasting ten years, with this current
35 one ending in 1960. However, these renewals were giving jurisdiction to the Permanent Court of Interna-
36 tional Justice, which Article 36 (5) of the Court's Statute addresses that as all states that declarations
37 made under Article 36 of the Statute of the PCIJ would be still in force. This would apply to Thailand's

38 1940 declaration to renew it, as the PCIJ was still active when the declaration was made and when the
39 Court was dissolved in 1946, Thailand would have still had to recognize the ICJ jurisdiction until 1950
40 when the 1940 declaration expired. However, the jurisdiction would not apply under the 1950 renew-
41 able as in that declaration they renewed their 1929 declaration which still recognized the PCIJ, but the
42 PCIJ is no longer a legal entity as such Article 36 of the PCIJ is no longer applicable, with that being
43 said Article 36(5) would not apply for the jurisdiction to carry over to the ICJ in the 1950 declaration. As
44 such, Thailand does not recognize or have a legal recognition for jurisdiction of the International Court
45 of Justice.

46 Thailand has stated that it does not recognize the jurisdiction of the Court which is their right as
47 a sovereign state to withdraw their consent. It is also in our opinion that the 1950 renewal agreement did
48 not grant the Court jurisdiction as it only was renewing the 1929 declaration to give the PCIJ jurisdiction,
49 which is no longer a legal entity.

50 Opinion

51 While qualms over litigation bar us from signing onto the Majority Opinion, we would like to
52 express our concurrence in the decisions made regarding the litigation in the case by the majority.
53 While Thailand claims to have never assented to the boundary espoused by the Mixed Commission's
54 1907 Annex I Map, the government's failure to raise objections to this agreement between the Franco-
55 Cambodian Protectorate and Thailand (formerly Siam) for over five decades indicates to us the de
56 facto institution of the 1907 borders, as opposed to the 1904 Franco-Siamese Treaty that demarcated
57 the border along the watershed line and the Dangrek mountain range. Based on this decision, the
58 Temple of Preah Vihear falls firmly within the territory of Cambodia. Furthermore, we hold that Thai-
59 land's claim that they themselves were unaware of certain stipulations of the 1907 Annex, including
60 that which established the Temple as being in Franco-Cambodian territory, is not a sufficient excuse
61 for disregarding the legality of the Annex as a whole.

62 Likewise, we would like to express our approval of all the measures and recommendations of
63 the majority opinion, including the firm establishment of the Temple in Cambodia territory, the demil-
64 itarization of the Temple, and the urging of Thailand to peacefully accept and agree to the ruling of
65 the Court. We repeat that it is our belief that this case cannot legally be litigated by the International
66 Court of Justice, though we concur with the outcomes reached by the majority in their analysis and
67 arguments regarding the case.

68 Conclusion

69 The idea of sovereignty of States comes from their absolute right of self-determination, which is
70 found in the first Article of the Charter of the United Nations. Thailand does not recognize the jurisdiction
71 of this Court, as such the Court should not have had accepted the application. The International Court
72 of Justice's role is to settle legal disputes between States, if both parties consent to it, which is stated in
73 Article 36 of the Statute of the Court. If Thailand does not recognize the jurisdiction of the Court in this
74 matter then the matter needs to be settled between the States by mutual agreement.

75 We respectfully dissent.

Signed By

A handwritten signature in black ink that reads "Andrew Murphy". The signature is written in a cursive style with a long, sweeping horizontal stroke at the end.

Justice Andrew Murphy

A handwritten signature in black ink that reads "John A. Hoving". The signature is written in a cursive style with a long, sweeping horizontal stroke at the end.

Justice Jack Hoving