

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

RIGHT TO STRIKE UNDER
ILO CONVENTION NO. 87
(REQUEST FOR ADVISORY OPINION)

ORDER OF 16 NOVEMBER 2023

2023

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

DROIT DE GRÈVE AU REGARD
DE LA CONVENTION N° 87 DE L'OIT
(REQUÊTE POUR AVIS CONSULTATIF)

ORDONNANCE DU 16 NOVEMBRE 2023

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16 NOVEMBER 2023

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INTERNATIONAL COURT OF JUSTICE

YEAR 2023

2023
16 November
General List
No. 191

16 November 2023**RIGHT TO STRIKE UNDER
ILO CONVENTION NO. 87**

(REQUEST FOR ADVISORY OPINION)

ORDER

Present: President DONOGHUE; Vice-President GEVORGIAN; Judges YUSUF, XUE, SEBUTINDE, BHANDARI, SALAM, IWASAWA, NOLTE, CHARLES-WORTH, BRANT; Registrar GAUTIER.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Articles 48, 65 and 66, paragraphs 2 and 4, of the Statute of the Court and to Articles 104 and 105 of the Rules of Court,

Makes the following Order:

Whereas on 10 November 2023, at its 349th *bis* (special) Session, the Governing Body of the International Labour Organization (ILO) adopted, in accordance with Article 37, paragraph 1, of the Constitution of the ILO and Article IX, paragraph 2, of the Agreement between that Organization and the United Nations, a resolution by which it decided, pursuant to Article 65 of the Statute of the Court, to request the International Court of Justice to render an advisory opinion;

Whereas certified true copies of the English and French texts of that resolution were transmitted to the Court under cover of a letter from the Director-General of the ILO dated 13 November 2023 and received in the Registry of the Court on the same day;

Whereas the operative part of this resolution reads as follows:

“The Governing Body,

.....

Decides, in accordance with article 37, paragraph 1, of the Constitution of the International Labour Organization,

1. To request the International Court of Justice to render urgently an advisory opinion under Article 65, paragraph 1, of the Statute of the Court, and under Article 103 of the Rules of Court, on the following question:

Is the right to strike of workers and their organizations protected under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)?

2. Instructs the Director-General to:
 - (a) transmit this resolution to the International Court of Justice, accompanied by all documents likely to throw light upon the question, in accordance with article 65, paragraph 2, of the Statute of the Court;
 - (b) respectfully request that the International Court of Justice allow for the participation in the advisory proceedings of the employers’ and workers’ organizations that enjoy general consultative status with the ILO;
 - (c) respectfully request that the International Court of Justice consider possible steps to accelerate the procedure, in accordance with Article 103 of the Rules of Court, so as to render an urgent answer to this request;
 - (d) inform the United Nations Economic and Social Council of this request, as required under article IX, paragraph 4, of the Agreement between the United Nations and the International Labour Organization, 1946”;

Whereas the Director-General of the ILO indicated in his letter that, pursuant to Article 65 of the Statute of the Court, all documents likely to throw light upon the question would be transmitted to the Court as soon as possible;

Whereas, by letters dated 14 November 2023, the Registrar gave notice of the request for an advisory opinion to all States entitled to appear before the Court, pursuant to Article 66, paragraph 1, of the Statute;

Whereas, in view of the fact that the Governing Body of the ILO has requested that the advisory opinion of the Court be rendered urgently, it is incumbent upon the Court to take necessary steps to accelerate the procedure, as contemplated by Article 103 of its Rules,

1. *Decides* that the International Labour Organization and the States parties to the Freedom of Association and Protection of the Right to Organise

Convention (No. 87) are considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion;

2. *Fixes* 16 May 2024 as the time-limit within which written statements on this question may be presented to the Court, in accordance with Article 66, paragraph 2, of the Statute;

3. *Fixes* 16 September 2024 as the time-limit within which States and organizations having presented written statements may submit written comments on the other written statements, in accordance with Article 66, paragraph 4, of the Statute;

4. *Decides* further that, in light of the particular tripartite structure of the International Labour Organization, which is comprised of representatives of Governments, employers and workers, six organizations having been granted general consultative status at the International Labour Organization by the Governing Body (the International Organisation of Employers, the International Trade Union Confederation, the World Federation of Trade Unions, the International Cooperative Alliance, the Organization of African Trade Union Unity and Business Africa) are also considered likely to be able to furnish information on the question submitted to the Court for an advisory opinion; and *decides* therefore to invite those organizations to make written contributions to the Court within the above time-limits;

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this sixteenth day of November, two thousand and twenty-three.

(Signed) Joan E. DONOGHUE,
President.

(Signed) Philippe GAUTIER,
Registrar.
