

The binding legal effect of ICJ advisory opinions

1. The question is often raised whether in case of referral to the ICJ, the advisory opinion given by the Court would have binding effect, and if so, on what basis.
2. According to general legal theory, ICJ advisory opinions are judicial statements on legal questions submitted to the Court by organs of the UN and other international bodies so authorized. Advisory opinions do not constitute a decision within the meaning of article 59 of the ICJ Statute. Unlike contentious proceedings, advisory proceedings do not involve parties to an inter-State dispute and are not vested with *res judicata* effect, meaning that they do not result in a final and non appealable judgment precluding relitigation of the same claim between the same parties.
3. However, advisory opinions relating to the interpretation of the ILO Constitution or of an international labour Convention are endowed with binding effect because art 37(1) expressly provides so (I). More broadly, there is strong support in State practice and legal scholarship that the legal effect of an ICJ advisory opinion is in reality as authoritative as a judgment and that the requesting organ is bound by the Court's 'advice' (II).

I.

4. According to the International Court of Justice, "a distinction should thus be drawn between the advisory nature of the Court's task and the particular effects that parties to an existing dispute may wish to attribute, in their mutual relations, to an advisory opinion of the Court, which, "as such, ... has no binding force" (*Interpretation of Peace Treaties with Bulgaria, Hungary and Romania*, Advisory Opinion, ICJ Reports 1950, p. 71). These particular effects, extraneous to the Charter and the Statute which regulate the functioning of the Court, are derived from separate agreements; in the present case Article VIII, Section 30, of the General Convention provides that "the opinion given by the Court shall be accepted as decisive by the parties". ([*Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*](#), Advisory Opinion, ICJ Reports 1999, para. 25, p. 77)
5. As explained in the [website](#) of the Court, "contrary to judgments, and except in rare cases where it is expressly provided that they shall have binding force (for example, as in the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, and the Headquarters Agreement between the United Nations and the United States of America), the Court's advisory opinions are not binding. *The requesting organ, agency or organization remains free to decide, as it sees fit, what effect to give to these opinions.*"
6. In the case of the ILO, a 'particular effect' is attributed to the Court's advisory opinions by an express constitutional provision, i.e. article 37(1) that unambiguously provides for a "decision" of the International Court of Justice. The ICJ has therefore been entrusted by the drafters of the ILO Constitution with the responsibility of delivering "decisions" – and not opinions – for the final settlement of interpretation disputes. It follows that by joining the Organization, all Member States accept the binding nature of any "decision" that the ICJ would deliver in response to a request made by the Organization under article 37(1).

7. As *Roberto Ago*, former President of the ICJ has written, “under certain provisions [advisory opinions] “may pursue a more ambitious aim, namely, to settle a dispute to which one of those institutions is a party. Examples of such provisions may be found in [...] the constituent instruments of certain of these organizations [...] The essential common feature of these provisions is that they characterize the opinion requested from the Court as a “decision” in relation to the dispute at issue; that is, they confer “binding force” on the opinion for the parties to the dispute”.¹ While *Shabtai Rosenne* refers to “those exceptional instances in which by collateral agreements States and international organizations have agreed that the opinion will have binding force or will be decisive. In those cases the obligation of compliance derives from the agreement”.²
8. Similar clauses providing for referral to the ICJ may be found in section 32 of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies, that provides that the opinion given by the Court shall be accepted as decisive, and former article XII of the ILOAT Statute. *Guillaume Bacot*, making explicit reference to article 37(1) of the ILO Constitution, notes that “il est habituellement admis que toutes ces dispositions signifient que ces avis rendus par la Cour doivent être acceptés comme obligatoires”.³ While for *Robert Kolb*, “the binding force of the Court’s pronouncement derives, as a matter of law, not from the opinion itself, but from the collateral legal text that confers upon the opinion a legal force it would not otherwise have had. In such a case, the opinion is a disguised form of judgment, the Court’s advisory function being used to decide a dispute or a point of law [...] The parties cannot derogate from the Statute and Rules [of the Court] by *reducing* their obligations under those texts [...] However, they are perfectly entitled to *add* to their obligations provided that their doing so does not conflict with the letter and spirit of the texts”.⁴
9. The binding nature of ICJ advisory opinions delivered at the ILO’s own request has been generally acknowledged and accepted for more than 100 years by all tripartite constituents (governments, employers, workers) without exception. Indeed, ILO records are replete with references of constituents (but also of the Office and of supervisory bodies) to “binding opinion”, “binding authority”, “binding ruling”, “the legal truth”, “authoritative interpretation”, “authoritative ruling”, “definitive interpretation”, “final decision”, “statement of the law in force” – all conveying the deep-rooted belief that article 37(1) confers a binding effect to advisory opinions obtained on that basis. A compilation of statements to this effect is in the Annex. In essence, this *opinio juris* of the ILO tripartite

¹ Roberto Ago, [“Binding Advisory Opinions of the International Court of Justice”](#), *American Journal of International Law*, vol. 85, 1991, p. 439. As Ago notes, “the Court has never considered its task to be to pronounce on whether these clauses conform with the criteria by which its Statute distinguishes between the Court’s functions. Nor has it seen fit to comment on whether attributing the binding nature of a ‘decision’ to a text adopted as an ‘opinion’ is consistent with the intrinsically advisory character of the latter”; *ibid*, p. 443.

² Shabtai Rosenne, *The Law and Practice of the International Court, 1920-2005*, 2006, vol. III, p. 1698.

³ Guillaume Bacot, “Réflexions sur les clauses qui rendent obligatoires les avis consultatifs de la CPJI et de la CIJ”, *Revue générale de droit international public*, vol. 84, 1980, p.1034.

⁴ Robert Kolb, *The International Court of Justice*, 2014, pp. 1187-1188. See also Jochen Frowein; Karin Oellers-Frahm, “Advisory opinions - Article 65” in A Zimmermann; C Tomuschat; K Oellers-Frahm (eds.), *The Statute of the International Court of Justice – A Commentary*, 2006, p. 1416.

constituency reflects the fact that article 37(1) must be understood as a 'compromissory clause' attributing decisive and conclusive effect to ICJ advisory opinions.

10. It was precisely this belief that motivated the six referral requests transmitted to the Permanent Court of International Justice in the period 1922-1932. What would be the purpose of debating and voting on these referral requests if there was no shared understanding among ILO constituents that they would be obliged to abide by the 'ruling' of the Court? And who would know better the legal effect of advisory opinions than those predecessors who have stood before the Court and explained the reasons of ILO's referral requests? When the first two interpretation questions were referred to the PCIJ in 1922, *Albert Thomas* stated that "there was no authority more highly placed or in whose judgement more reliance could be reposed than the Permanent Court of International Justice for the purpose of settling disputes of this nature" and noted "the acceptance of its obligatory jurisdiction [of the Permanent Court], [that had] the right of giving to any international convention an official interpretation, having the same binding force as the instrument itself". As for *Harold Butler*, he noted ten years later in the written statement to the Court the following: "The object of the present proceedings before the Court is to secure an authentic interpretation. Once such an interpretation is given in whatever sense, it will lead ipso facto to the disappearance of all divergences and inequalities, for States bound by the Convention will be under an obligation to take the necessary measures to give effect to the interpretation laid down by the Court".
11. Apart from the express reference to "decision" in article 37(1), the biding effect of advisory opinions is also grounded on institutional logic and common sense. If the Court's opinion were not accepted as binding, article 37 would become meaningless and its very purpose as a dispute settlement clause would be defeated as there would be no authority designated as competent to settle authoritatively an interpretation dispute. In that case, what would be the need or utility of including article 37(1) in the ILO Constitution and why would the Constitution require any dispute or question to be referred to the ICJ for decision?

II.

12. At a more general level, it is generally admitted in State practice and legal scholarship that ICJ advisory opinions, even though not formally binding, carry legal weight and may be assimilated in many respects to binding judgments. As early as 1927, a committee of the Permanent Court expressed the opinion that "the difference between contentious cases and advisory opinions is only nominal. The main difference is the way in which the cases come before the Court. So the view that advisory opinions are not binding is more theoretical than real".⁵
13. Writing in 1929, *Charles De Visscher* took the view that "dans les limites de la question qu'il a posée à la Cour sur les aspects juridiques d'un différend, le Conseil [de la Société des Nations] est forcément lié par l'avis rendu : cet avis n'est donc pas une consultation

⁵ Quoted in Leland Goodrich, "The nature of the advisory opinions of the Permanent Court of International Justice", *American Journal of International Law*, vol. 32, 1938, p. 739.

ordinaire, semblable à celle que le Conseil pourrait demander à un comité de juristes, par exemple, et qu'il serait libre par la suite d'écarter à volonté".⁶ And *Georges Scelle*, four years later had this to say: "an advisory opinion is a statement of the law; it is self-contradictory, and thus technically impossible, to declare that a subject of law [...] when he knows what the law has to say about a concrete case, can refuse to yield to it".⁷

14. Legal writings have since confirmed that the authoritativeness of the Court's opinions renders them - for all intents and purposes - binding on the requesting organ. As it has been observed, "an advisory opinion is not just advice or consultation [...] There is no fundamental difference between the intrinsic value of the content of the Court's opinion and that of a judgment given by the same Court, in the sense that both are authoritative judicial pronouncements deciding questions that have been submitted to the Court".⁸ In the words of another scholar, "no matter whether the Court's advisory opinions are formally binding on others, they are binding on the UN's organs as regards the point of law decided by the Court's jurisdictional act. To the extent that such organs are obliged, or deliberately choose, to adopt a legal solution to the point decided by the Court's opinion, that point of law becomes binding on the requesting organ".⁹
15. There is also considerable evidence that States invariably accept the Court's opinions as final and refrain from questioning the Court's legal reasoning. The statements of the French and UK representatives at the UN General Assembly in reaction to the [Reparation for Injuries](#) advisory opinion are eloquent illustrations in this regard. As Ms Bastid from France stated, "the Assembly had requested an authoritative opinion of the International Court of Justice, for it did not know exactly what legal conditions must be complied with for the Secretary-General to be able to take action. The General Assembly was now in the same condition as an individual who had consulted a jurist on a legal matter and who. On the strength of his opinion and without discussing it, acted in conformity with that experts' conclusions". As for Mr Fitzmaurice of the United Kingdom, he stated: "the Sixth Committee could neither approve nor disapprove of the findings of the Court on a point of law. The United Kingdom government greatly welcomed the opinion of the Court, not because its findings were in accordance with the argument which the United Kingdom had presented to the Court but because it believed they were in the best interests of the United Nations itself".¹⁰
16. It shall also be recalled that in its resolution [A/RES/73/295](#), adopted on 22 May 2019 to follow up on the advisory opinion given by the Court in the Chagos case, the General Assembly "[considered] that respect for the Court and its functions, including in the exercise of its advisory jurisdiction, is essential to international law and justice and to an international order based on the rule of law". In the same vein, the General Assembly in

⁶ Ch De Visscher, "Nature des avis consultatifs et limites de leur autorité", *Recueil des cours de l'Académie de La Haye*, vol. 26, 1929, p. 27.

⁷ Georges Scelle, "Règles générales du droit de la paix", *Recueil des cours de l'Académie de La Haye*, vol 46, 1933, p. 581.

⁸ Georges Abi-Saab, *Les exceptions préliminaires dans la procédure de la Cour internationale*, 1967, p.75.

⁹ R Kolb, *op cit*, p. 1184.

¹⁰ Cited in Edvard Hambro, "The Authority of the Advisory Opinions of the International Court of Justice", *International and Comparative Law Quarterly*, vol. 3, 1954, pp. 16-17.

resolution [A/RES/ES-10/15](#) adopted after the advisory opinion on the Wall case “[considered] that respect for the Court and its functions is essential to the rule of law” and “[called] upon all States Members of the United Nations to comply with their legal obligations as mentioned in the advisory opinion”.

17. Moreover, the moral authority ICJ advisory opinions enjoy due to the stature of the judges and the high esteem to which the Court is held can hardly be overestimated. The ICJ has delivered landmark opinions which have been instrumental for the development of international law in many different areas (for instance, the *Genocide* opinion of 1951, the *Reparation for injuries* opinion of 1949, the *Namibia* opinion of 1971, the *Nuclear Weapons* opinion of 1996).¹¹ Not to mention that advisory opinions are often couched in terms that leave little doubt as to the authoritativeness of the statements of law they contain. The advisory opinions on the [Construction of a Wall](#) of 2004 and the [Chagos Archipelago](#) of 2009 are notable examples of legal ‘advice’ carrying the weight of legal pronouncement *erga omnes* that compels compliance, especially with respect to duties and obligations of UN Member States under international law.¹²

18. It is noteworthy that even the main point of distinction between judgments and advisory opinions, namely the fact that only judgments are vested with *res judicata* effect (i.e. adjudication is conclusive and matter cannot be relitigated), has recently been called into question. In a [Judgment of 2021](#) concerning maritime delimitation between Mauritius and Maldives, the ITLOS argued that the 2019 advisory opinion on the Chagos archipelago had resolved the dispute in favour of Mauritius, thus marking “the beginning of a new era where international courts and tribunals recognize ICJ advisory opinions as precedents having the (normative) authority to resolve a dispute”.¹³ Even before the ITLOS judgment, however, it had been highlighted in academic writings that “an advisory opinion, like a judgment in a contentious case, enjoys a kind of factual *res judicata* status, since there is no mechanism for appealing against either. In short, the absence in an advisory opinion of the force of *res judicata*, though often emphasized, has quite negligible practical implications”.¹⁴

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19. In conclusion, in contemplating a possible referral of the interpretation dispute on Convention No 87 to the ICJ, due account should be taken of the fact that, for the reasons explained above, the Court’s opinion on the legal question(s) put to it would be binding for the Organization and its tripartite constituents. Clarity on this important parameter would be a necessary condition for any referral decision-making process. To quote once more from a seminal work on the Court’s functioning, “any other attitude would

¹¹ On the normative effect of ICJ advisory opinions, see Teresa Mayr, Jelka Mayr-Singer, “Keep the wheels spinning: The contributions of advisory opinions of the international Court of Justice to the development of International Law”, *ZaöRV*, vol. 76, 2016, pp.425-449.

¹² See Richard Falk, “[Towards Authoritativeness: The ICJ Ruling on Israel’s Security Wall](#)”, *American Journal of International Law*, vol. 99, 2005, pp. 42-52.

¹³ Niccolo Lanzoni, “The authority of ICJ advisory opinions as precedents: The *Mauritius/ Maldives* Case”, *Italian Review of International and Comparative Law*, 2022, p.321.

¹⁴ R Kolb, *op cit*, p. 1183.

undermine the Courts' authority and prestige. In political terms, the two things are one: either the requesting organ is ready to follow or be guided by the Court's advisory opinion, in which case it can ask for one, or it is not, in which case it must not ask for the opinion in the first place. This is a major political responsibility resting on anybody contemplating requesting an advisory opinion. It must obviously avoid embarrassing the UN's highest judicial organ".¹⁵

20. As the current President of the ICJ put it in a recent [statement](#), "States that are truly committed to the rule of law must entrust international courts and tribunals with judicial settlement of legal disputes. When a State avoids binding and compulsory third-party dispute settlement, its invocations of the rule of law sound hollow [...] The rule of law requires States to comply systematically with decisions of international courts and tribunals that are binding on them, even if they disagree with a decision." It is difficult to imagine why the rule of law principle would apply any differently to the ILO in relation to an advisory opinion delivered by the ICJ at the ILO's own request and on the basis of the compulsory third-party dispute settlement clause that is found in its Constitution.

¹⁵ R Kolb, *op cit*, p. 1186.

**Annex - Compilation of statements concerning the legal effect of advisory
Opinions requested under art. 37(1) of the ILO Constitution**

I. Governments

In 1922, during the discussions at the Council of the League of Nations concerning the possible referral to the PCIJ of the question on *Agricultural Production* (1922), the representative of **France** delegate stated that *"it would remove all possible difficulty if a formal decision was obtained from the Court"* ([Official Bulletin, 1922, Vol. VI, No. 11](#), p. 384).

In 1931, the representative of **Poland** stated before the PCIJ in the context of the *Free City of Danzig and ILO* advisory proceedings that it *"awaits with deference the advisory opinion of the Court. In the light of the reply given to the question put by the Council of the League, Poland will take the necessary steps to meet the situation thus created"* ([Official Bulletin, 1931, vol. XVI](#), No. 2, p. 239).

In 1932, in the context of the advisory proceedings on the *Interpretation of the Convention of 1919 concerning employment of women during the night*, the representative of **Great Britain** stated that *"it became apparent that different interpretations were being placed by different States (...), and in these circumstances His Majesty's Government moved the Governing Body to invite the Council to obtain an authoritative ruling from the Court"* ([Official Bulletin, 1933, vol. XVIII](#), No. 2, p. 84).

In 1989, the Government member of the **Netherlands** in the CAS stressed *"the necessity of close co-ordination between the lawyers of the Office and national jurists (because) their interpretation of ILO standards might differ widely, although neither of them was authoritative since, as was known, only the International Court of Justice was competent in this regard"* ([ILC, Record of Proceedings, 1989](#), p. 26/4, para. 12).

In 1990, the Government member of **Finland**, speaking on behalf of the **Nordic governments**, stated in the CAS that *"according to the ILO Constitution, the competence for giving definitive interpretations of Conventions, however, was vested in the International Court of Justice"* ([ILC, Record of Proceedings, 1990](#), p. 27/8, para. 31).

In 1991, the Government member of **France** stated in the CAS that *"the International Court of Justice provided the final recourse for the interpretation of the Constitution and of Conventions"* ([ILC, Record of Proceedings, 1991](#), p. 24/5, para. 21).

In 2010, the Government member of **Venezuela**, speaking on behalf of **GRULAC**, expressed the view that *"the Committee of Experts interpreted Conventions which was delegated to the International Court of Justice in the Constitution"* (ILC, Record of Proceedings, 2010, [Provisional Record No. 16, Report of the CAS, Part I](#), para. 64).

In 2014, the Government delegate of **Venezuela** stated in the ILC plenary that *"Article 37(1) of the Constitution of the International Labour Organisation clearly and categorically puts forward a solution in this regard. The issue must be referred to the International Court of Justice, so that, once and for all, the Court can interpret Convention No. 87 and issue a binding opinion in that regard"* (ILC, [Records of Proceedings, 2014](#), pp. 17/11-12).

II. Employers

In 1926, the representative of the International Organization of Industrial Employers before the PCIJ in the *Personal Work of Employers* (1926) advisory proceedings, noted that *"it is futile to say that the Court can give only an Advisory Opinion. It is clear that here as in other spheres the Court exercises a judicial function which consists in interpreting the law, and its judgments must be considered as a statement of the law in force"* ([Official Bulletin, 1926, vol. XI](#), No. 5, p. 223).

In 1989, the Employers' member of Sweden in the CAS stated that *"Only one body – the International Court of Justice – could make authoritative interpretations of international labour Conventions. Recourse to it had seldom been sought, probably because there had been considerable satisfaction with the way the system functioned. Nonetheless, the role of the International Court of Justice as the ultimate arbiter should always be borne in mind"* (ILC, [Records of Proceedings, 1989](#), p. 26/6, para. 21).

In 1992, the Employers' spokesperson to the CAS affirmed that *"under the ILO Constitution only the International Court of Justice may give a definitive interpretation of a Convention"* (ILC, [Record of Proceedings, 1992](#), p. 27/4, para. 17).

In 1993, the Employers' spokesperson observed that *"every supervisory body examining whether a State was fulfilling its obligations under a Convention had to undertake the task of interpretation, although only one – the International Court of Justice – could do so with binding authority"* (ILC, [Record of Proceedings, 1993](#), p. 25/4, para. 19).

In 1994, the Employers' spokesperson remarked that *"Only the International Court of Justice may give binding interpretations"* (ILC, [Record of Proceedings, 1994](#), p. 25/8, para. 21).

In 1998, the Employers' spokesperson reiterated that *"According to the ILO Constitution, only the International Court of Justice was empowered to give definitive interpretations"* (ILC, [Record of Proceedings, 1998](#), p. 18/8, para. 17).

In 1999, the Employers' spokesperson regretted that *"It was therefore small consolation that the only binding interpretation of legal texts could be made by the International Court of Justice. In view of the absence of any decision by that Court, there was therefore no generally binding interpretation of the two Conventions"* (ILC, [Record of Proceedings, 1999](#), p. 23/37, para. 114).

In 2001, the Employer Vice-Chairperson of the CAS expressed the view that the CEACR *"should not develop jurisprudence, and it should certainly not assume responsibility for issuing binding interpretations of standards. Under article 37 of the ILO Constitution, that is a power reserved for the International Court of Justice"* (ILC, [Record of Proceedings, 2001](#), p. 22/4).

In 2002, the Employers spokesperson to the CAS emphasized that *"only the International Court of Justice had the authority to make binding interpretation of Conventions and Recommendations, which clearly derived from article 37 of the ILO Constitution"* (ILC, [Record of Proceedings, 2002, Provisional Record No. 28, Report of the CAS, Part I](#), p. 28/13, para. 45).

In 2006, the Employers' representative to the Selection Committee stated that *"an advisory opinion by the ICJ was a result which could be obtained in a relatively short time, and it would be a binding ruling that could be enforced through the UN Security Council"* (ILC,

[Record of Proceedings, 2006, Provisional Record No. 3-2, Second Report of the Selection Committee](#), p. 3-2/4).

In 2012, the Employers spokesperson to the CAS stated that *"under article 37 of the ILO Constitution, only the ICJ could give a definitive interpretation of international labour convention"* (ILC, Record of proceedings, 2012, [Provisional Record No. 19\(Rev.\), Report of the CAS, Part I](#), para. 82).

III. Workers

In 1932, in the context of the advisory proceedings concerning the *Night Work (Women) Convention*, the representative of the International Confederation of Christian Trade Unions stated that what he expected from the Court was *« la vérité juridique sur le texte en question, plus encore: la méthode d'interprétation des conventions qui sera le guide des Etats, de l'Organisation internationale du Travail et des organisations professionnelles dans tout le domaine des conventions »* ([Official Bulletin, 1933, vol. XVIII](#), No. 2, p. 147).

In 1991, the Workers' spokesperson to the CAS considered *"that neither the assessments of the present Committee nor the views expressed by the Committee of Experts had the force of law, although the opinion of the Committee of Experts was generally accepted in view of the Committee's composition and working methods, subject to a definitive interpretation by the International Court of Justice"* (ILC, [Record of Proceedings, 1991](#), p. 24/4, para. 16).

In 1992, the Workers' member of Finland in the CAS stated that *"until recently the established interpretations made by the Committee of Experts have been considered binding by member States until the International Court makes a final decision"* (ILC, [Record of Proceedings, 1992](#), p. 27/5, para. 19).

IV. Committee of Experts

In 1977, the Committee of Experts stated that its *"terms of reference do not require it to give interpretations of Conventions, competence to do so being vested in the International Court of Justice by article 37 of the Constitution."* ([ILC, 1977, Report III](#), Part 4A, Report of the Committee of Experts, General Report, para 32).

The Committee reiterated that *"its terms of reference do not require it to give definitive interpretations of Conventions, competence to do so being vested in the International Court of Justice by article 37 of the Constitution"* in 1987, 1990, 1991, 2006 and 2013 ([ILC, 1987, Report III](#), Part 4A, para 21; [ILC, 1990, Report III](#), Part 4A, para 7; [ILC, 1991, Report III](#), Part 4A, para 9; [ILC, 2006, Report III](#), Part 1A, p. 2; [ILC, 2013, Report III](#), Part 1A, para 26).

In 1991, the Committee noted that *"It is essential for the ILO system that the views that the Committee is called upon to express in carrying out its functions, in the conditions recalled above, should be considered as valid and generally recognised, subject to any decisions of the International Court of Justice which is the only body empowered to give definitive interpretations of Conventions"* ([ILC, 1991, Report III](#), Part 4A, para 12).

V. The Office

In 1922, in the framework of the very first advisory opinion requested by the ILO, its Director General, Sir Albert Thomas, stated that *"It appeared to our Organisation and to our Governments that there was no authority more highly placed or in whose judgement more reliance could be reposed than the Permanent Court of International Justice for the purpose of settling disputes of this nature."* ([Official Bulletin, 1922, vol. VI](#), pp. 72-73)

In 1922, in the Office memorandum concerning the *Competence of the ILO in regard to International Regulation of the Conditions of the Labour of Persons Employed in Agriculture* (1922), it was noted that *"until the creation of the Permanent Court of International Justice and the acceptance of its obligatory jurisdiction, the right of giving to any international convention an official interpretation, having the same binding force as the instrument itself, to which it is assimilated, belonged exclusively to the signatory States"* ([Official Bulletin, 1922, vol. VI](#), p. 325).

Following the advisory opinion of the Court, a letter was sent to several Governments by which they were informed that the *"controversy which was closed by the advisory opinion given by the Permanent Court of International Justice"* ([Official Bulletin, 1923, Vol. VIII](#), Nos 1-2, p. 2).

In 1926, in the Office memorandum concerning the *Personal Work of Employer*, it was noted that *"of course, the preamble accompanying the question submitted to the Court is not intended to be taken as in any way prejudicing the opinion the Court is invited to give. There is no need to say that on the contrary the Governing Body of the International Labour Office will bow to the decision of the Court"* ([Official Bulletin, 1926, Vol. XI](#), No. 5, p. 180).

In 1930, in the Office memorandum concerning the *Free City of Danzig* it was stated that *"the International Labour Office does not consider itself qualified to form any conclusion on the subject, and awaits with respect the answer of the Court, with which the attitude of the International Labour Organisation will not fail to comply"* ([Official Bulletin, 1931, vol. XVI](#), No. 2, p. 104).

In 1932, in his oral statement in the context of the proceedings concerning the *Night Work (Women) Convention*, the ILO representative stated that *"the object of the present proceedings before the Court is to secure an authentic interpretation. Once such an interpretation is given in whatever sense, it will lead ipso facto to the disappearance of all divergences and inequalities, for States bound by the Convention will be under an obligation to take the necessary measures to give effect to the interpretation laid down by the Court"* ([Official Bulletin, 1933, vol. XVIII](#), No. 2, p. 116).

In 1969, the representative of the Legal Adviser explained to the members of the Committee on Youth Schemes that, *"according to article 37 of the Constitution, only the International Court of Justice could authoritatively interpret Conventions"* (ILC, [Records of Proceedings, 1969](#), p. 694, para. 59).

In 1978, the Legal Adviser of the Conference gave an opinion on the possible admission of Namibia as a member of the ILO and stated that *"the International Court of Justice is, in accordance with article 37, paragraph 1 of the Constitution, alone competent to*

give an authoritative answer" on any question or dispute regarding the interpretation of the Constitution (ILC, [Record of Proceedings, 1978](#), p. 24/20).

In his report to the 70th Session of the ILC in 1984, the Director-General recalled the position of the Committee of Experts that *"competence to give interpretations of Conventions is vested in the International Court of Justice by article 37 of the Constitution. While, on account of the standing and expertise of the members of the Committee of Experts, the Committee's views merit the closest attention and respect and in the great majority of cases find acceptance from the governments concerned, they do not have the force of authoritative pronouncements of law. The Committee is not a court able to give decisions binding upon member States"* (ILC, [Report of the Director-General, 1984](#), p. 30).

In 1990, the representative of the Secretary-General to the CAS indicated that the opinions of the Committee of Experts *"are not authoritative as concerns interpretations to which they may give rise, [and that] this authority attaches exclusively to the International Court of Justice"* (ILC, [Record of Proceedings, 1990](#), p. 27/9, para. 35).

In 2010, the representative of the Secretary-General to the CAS noted that the ICJ is *"the only body at present competent to provide the authoritative interpretation set forth in article 37(1) of the Constitution"* (ILC, Record of Proceedings, 2010, [Provisional Record No. 16, Report of the CAS, Part I](#), para. 33).

(Source: [GB.347/INS/5](#), para 13, footnote 11)