



Questions & Answers about the advisory procedure

Statistics

- Advisory procedures represent about 20% of the cases before the International Court of Justice
- Some 60% of the advisory opinions given by the Court have been requested by the UN General Assembly

At the ICJ, the advisory procedure is available to certain public international organizations only (namely organs and agencies of the United Nations system) and enables them to request an advisory opinion from the Court on a legal question.

Which UN organs and agencies may ask the Court for an advisory opinion?

Five UN organs and 16 agencies of the UN family (see list below) are authorized to request advisory opinions. The UN General Assembly and Security Council have inherited with respect to the ICJ a power which the Covenant of the League of Nations previously conferred on the Assembly and Council of the League with respect to the PCIJ. Three other UN organs, including the Economic and Social Council, have been authorized by General Assembly resolutions to request advisory opinions. The 16 agencies have been so authorized by the General Assembly in pursuance of agreements governing their relationship with the United Nations. The UN General Assembly and the Security Council may request an advisory opinion "on any legal question"; other UN organs and agencies "on legal questions arising within the scope of their activities".

Organizations entitled to request advisory opinions

UN organs

General Assembly
Security Council
Economic and Social Council
Trusteeship Council
Interim Committee of the General Assembly

Agencies of the UN family

International Labour Organisation (ILO)
Food and Agriculture Organization of the United Nations (FAO)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
World Health Organization (WHO)
International Bank for Reconstruction and Development (IBRD)
International Finance Corporation (IFC)
International Development Association (IDA)
International Monetary Fund (IMF)
International Civil Aviation Organization (ICAO)
International Telecommunication Union (ITU)
World Meteorological Organization (WMO)
International Maritime Organization (IMO)
World Intellectual Property Organization (WIPO)
International Fund for Agricultural Development (IFAD)
United Nations Industrial Development Organization (UNIDO)
International Atomic Energy Agency (IAEA)

May a State ask for an advisory opinion?

No. A request for an advisory opinion must always be submitted by an international organization, even if the request is sometimes the result of an initiative by a State or a group of States member(s) of that organization.

Does the advisory procedure differ greatly from contentious proceedings?

The advisory procedure has distinctive features resulting from the special nature and object of the Court's advisory function, but it is based on the rules applicable to contentious proceedings. On receiving a request for an advisory opinion, the Court draws up a list of those States and organizations that might be able to furnish relevant information. The States and organizations so listed are not, however, in the same position as the parties to contentious proceedings, nor will any participation by them in the advisory proceedings render the Court's opinion binding upon them.

The procedure is conducted more rapidly than in a case between States. In general, it consists in two written phases and public hearings. The procedure followed by the Court on the question of the Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo (request for advisory opinion) is explained in Press Release 2009/27 which is available on the Court's Website.

May the Court decline to give an advisory opinion?

Yes. The Court may decline to give an advisory opinion when to do so would conflict with its judicial character or the essential rules that guide its activity as a court, or when the request is beyond the capacity of the requesting organ. The Court has several times been impelled, either on its own initiative or at a State's request, to investigate whether it had jurisdiction, whether the question put to it was a legal question, or whether certain features of the previous treatment of the subject-matter rendered it undesirable for the Court to pronounce upon it. It has only once declined to give an advisory opinion.

What does an advisory opinion look like?

Advisory opinions are drawn up after the same kind of *in camera* deliberations as in contentious proceedings, and are divided in the same way into a summary of the proceedings, the Court's reasoning and the operative paragraph. Declarations and separate or dissenting opinions may be appended to them. The advisory opinion is read out at a public sitting in the Great Hall of Justice at the Peace Palace.

Are advisory opinions binding?

Unlike judgments, the Court's advisory opinions have no binding effect. The requesting UN organ or agency remains free to give effect to the opinion, or not to do so. In a few specific cases, it is stipulated that an advisory opinion shall have binding force (e.g., those concerning the General Convention on the Privileges and Immunities of the United Nations and the host agreement between the UN and the United States). At the same time, the authority of the Court attaches to its advisory opinions and to the findings contained in those advisory opinions. The Court's advisory opinions are taken into account by international organizations and States in practice, which contributes to the development of international law.