

SERIE B. N<sup>o</sup>. 2 & 3.

# RECUEIL DES AVIS CONSULTATIFS

PUBLICATIONS  
DE LA COUR PERMANENTE DE JUSTICE INTERNATIONALE

Avis consultatif donné par la Cour à la date du  
12 août 1922 sur la question de savoir:

„Si l'Organisation internationale du Travail a la compétence pour la réglementation internationale des conditions du travail des personnes employées dans l'agriculture et pour l'examen de propositions tendant à organiser et à développer les moyens de production agricole ainsi que pour l'examen de toutes autres questions de même nature.”

---

# COLLECTION OF ADVISORY OPINIONS

PUBLICATIONS  
OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

Advisory opinion given by the Court on August 12<sup>th</sup>  
1922 upon the following question:

„Has the International Labour Organisation the competence in regard to international regulation of the conditions of labour of persons employed in agriculture and to examine proposals for the organisation and development of the methods of agricultural production as well as other questions of a like character.”

LEYDE  
SOCIÉTÉ D'ÉDITIONS  
A. W. SIJTHOFF  
1922



LEYDEN  
A. W. SIJTHOFF'S  
PUBLISHING COMPANY  
1922

PERMANENT COURT OF INTERNATIONAL  
JUSTICE.

---

FIRST (ORDINARY) SESSION.

1922,  
August 12th,  
File: F. a. IV.  
Docket: I:3.

PRESENT:

M. LODER,	President,
M. WEISS,	Vice-President,
Lord FINLAY,	
MM. NYHOLM,	
MOORE,	
DE BUSTAMANTE,	
ALTAMIRA,	
ODA,	
ANZILOTTI,	Judges,
M. NEGULESCO,	Deputy-Judge.

---

ADVISORY OPINION No. 3.

By a letter dated at London, July 18th, 1922, the Secretary General of the League of Nations, in conformity with a decision taken by the Council on that day, transmitted to the Court a request by the Council for an Advisory Opinion on the following question:

*„Does examination of proposals for the organisation and development of methods of agricultural production, and of other questions of a like character, fall within the competence of the International Labour Organisation?“*

The Advisory Opinion thus requested is, as the letter states, to be in addition to that which the Court was, by decision of the Council of May 12th, 1922, requested to give on the question whether the competence of the International Labour Organisation „extends to international regulation of the conditions of labour of persons employed in agriculture“.

With his letter of July 18th the Secretary General transmitted to the Court:

1) A letter of June 14th, 1922, from the French Minister of Foreign Affairs, together with a memorandum ;

2) A letter of July 3rd, 1922, from the International Labour Office, transmitting a memorandum containing observations by the Director of that Office on the supplementary application made by the French Government to the Council with a view to obtaining the additional Advisory Opinion now requested.

Notice of this request was sent by the Court to the following :

To all the Members of the League (through the Secretary-General of the League) and to the States mentioned in the Annex to the Covenant ; also to Germany, Hungary and to the International Institute of Agriculture at Rome.

In addition to the documents above mentioned, the Court had before it the following :

1) Extract from Minutes of the Council Meeting held on July 18th, 1922 ;

2) Letter from the International Institute of Agriculture at Rome, of July 28th, 1922 ;

3) Letter from the Secretary-General of the League of Nations, dated August 3rd, 1922, transmitting the opinion of the Haïtian Government on this question ;

4) Letter from the Secretary-General of the League of Nations dated August 2nd, 1922, transmitting the opinion of the Esthonian Government on this question ;

5) Letter from the Swedish Minister at The Hague, dated August 5th, 1922, transmitting the Swedish Government's opinion on this question ;

6) Letter from the Secretary-General of the Confédération internationale des syndicats agricoles, dated August 5th, 1922.

Oral statements were addressed to the Court at public sittings on behalf of the French Government on August 3rd, 1922, and on behalf of the International Labour Organisation, on August 8th, 1922.

In the memorandum above mentioned, containing observations by the Director of the International Labour

Office on the proposed request for an Advisory Opinion on the present question, there is the following statement :

„It would seem desirable to state at once that the International Labour Organisation has never considered any intervention of this nature, and to declare categorically, that, in our opinion, the organisation and development of agricultural production are outside the competence of the International Labour Organisation.”

This disclaimer was repeated by the Director of the International Labour Office in the oral statement made by him on behalf of the International Labour Organisation before the Court.

The French Government, on the other hand, has maintained that, notwithstanding the disclaimer thus made, the question raised by it as to the competence of the International Labour Organisation in the matter of agricultural production should be the subject of an authoritative opinion on the part of the Court.

\* \* \*

The Court, having considered the documents and the oral statements before it, gives, in response to the request of the Council, the following opinion :

The Court has this day answered in the affirmative the question whether international regulation of the conditions of labour of persons employed in agriculture falls within the competence of the International Labour Organisation. This answer is based entirely upon the provisions of Part XIII of the Treaty of Versailles, signed on June 28th, 1919. The answer to the question whether the consideration of proposals for the organisation and development of the means of agricultural production, and the consideration of other questions of like character, fall within the competence of the International Labour Organisation, must likewise depend entirely upon the construction to be given to the same treaty provisions from which, and from which

alone, that Organisation derives its existence and its powers.

The two questions both have reference to agriculture ; but they are essentially different in their nature, and the considerations applicable to them are different. The answer to the question now under consideration must depend upon the nature of the activities of the International Labour Organisation. Only if these activities include the study and promotion of agricultural production will the answer to the present question be in the affirmative.

So far as concerns the question of production, there is nothing special in the case of agriculture. Any industry, say one for the manufacture of cloth, would clearly fall within the province of the International Labour Organisation. They can promote, in the manner specified in the Treaty, the adoption of any measures calculated to benefit those engaged in the industry, particularly with regard to any of the points specifically mentioned. It would be a totally different matter if the International Labour Organisation should ever make any claim to the right to consider the question of improvements in manufacturing processes, with the view of increasing the output or improving the article produced. The question of an increase of production in agriculture must be dealt with in this respect exactly in the same manner as the question of improvements in the output of any article of manufacture.

Do the functions of the Organisation extend to the promotion of improvements in the processes tending to increase the amount of production ?

It appears to the Court that they do not ; either in the case of agriculture or in the case of any other branch of industry.

In the opinion this day rendered on the question of competence as regards the regulation of the conditions of agricultural labour, the Court has given a full and detailed exposition of the powers of the International Labour Organisation under Part XIII of the Treaty of Versailles ; and

it is unnecessary to repeat what was there so amply set forth. The object for which the International Labour Organisation was founded was the amelioration of the lot of the workers and the adoption of humane conditions in matters such as the hours of labour, the labour supply, prevention of unemployment, an adequate living wage, protection against sickness, disease and injury arising out of employment, the protection of children, young persons and women, provision for old age and injury, the protection of workmen employed in countries other than their own, freedom of association, vocational and technical education, and, as the Treaty says, „other measures”, which must mean measures to improve the conditions of labour and to do away with injustice, hardship and privation.

The organisation and development of the means of production are not committed to the Organisation. It may be that in some cases the improvement of the conditions of the workers may increase the amount of the production. Such increase obviously may result from the development of vocational and technical education. It may be that the limitation of the hours of work and other provisions for the benefit of the workers may diminish or increase the amount of production.

It does not follow that the International Labour Organisation must totally exclude from its consideration the effect upon production of measures which it may seek to promote for the benefit of the workers. If it should appear that a particular measure would involve a material diminution of production, this might be a matter proper to be considered by the Organisation before deciding on its adoption, although it might be desirable in other respects. So, for instance, protection against sickness, disease and injury arising out of employment may involve the consideration of methods and processes of production, such as the use of white phosphorus, and of white lead, both of which have been dealt with as subjects within the scope of international regulation as affecting the conditions of labour. But the

consideration of methods of organising and developing production from the economic points of view is in itself alien to the sphere of activity marked out for the International Labour Organisation by Part XIII of the Treaty; and, broadly speaking, any effect which the performance by the Organisation of its functions under the Treaty may have on production is only incidental. On the other hand, it is evident that the Organisation cannot be excluded from dealing with the matters specifically committed to it by the Treaty on the ground that this may involve in some aspects the consideration of the means or methods of production, or of the effects which the proposed measures would have upon production. It is only in this way that the carrying out of the programme committed to the Organisation touches on production.

The question now put to the Court, after mentioning proposals for the organisation and development of methods of agricultural production, goes on to inquire whether the consideration „of other questions of a like character” falls within the competence of the International Labour Organisation.

The words used imply that the „other questions” are to be questions essentially of the same nature for the present purpose as that of the organisation and development of means of production; but such „other questions” are not specified, and the Court does not undertake to say what they may be.

It follows from what has been said that the Court understands the question to be whether the consideration of the means of production in itself, and apart from the specific points in respect of which powers are conferred upon the International Labour Organisation by the Treaty, falls within the competence of that Organisation

*This Question, for the reasons above stated, the Court answers in the negative.*

Done in French and English, the English text being authoritative,

at the Peace Palace, the Hague, this twelfth day of August, one thousand nine hundred and twenty-two, in two copies, one of which is to be placed in the archives of the Court and the other to be forwarded to the Council of the League of Nations.

(signed) LODER,  
President.

(signed) Å. HAMMARSKJÖLD  
Registrar.