

READING OF THE ADVISORY OPINION

PUBLIC SITTING

*held at the Peace Palace, The Hague, on 27 May 1987,
the President, Judge Nagendra Singh presiding*

LECTURE DE L'AVIS CONSULTATIF

AUDIENCE PUBLIQUE

*tenue au palais de la Paix, à La Haye, le 27 mai 1987,
sous la présidence de M. Nagendra Singh, Président*

PUBLIC SITTING (27 V 1987, 3 p.m.)

Present: President NAGENDRA SINGH; Vice-President MBAYE; Judges LACHS, RUDA, ELIAS, ODA, AGO, SETTE-CAMARA, SCHWEBEL, Sir Robert JENNINGS, BEDJAOUI, NI, EVENSEN, TARASSOV; Registrar VALENCIA-OSPINA.

READING OF THE ADVISORY OPINION

The PRESIDENT: The Court meets today in order to deliver in open Court, in accordance with Article 67 of the Statute, the Advisory Opinion requested of it by the Committee on Application for Review of Administrative Tribunal Judgements in the case concerning *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*. That Judgement was given by the Tribunal in proceedings brought against the Secretary-General of the United Nations by Mr. Vladimir Viktorovich Yakimetz.

In accordance with the usual practice I shall not read the opening paragraphs of the Opinion, which deal with the procedural history of the case and the facts of the case as found by the Tribunal. For the understanding of what follows, I shall indicate some of these salient facts, but I must emphasize that the Advisory Opinion contains a much fuller summary.

Mr. Yakimetz, a national of the Union of Soviet Socialist Republics, was employed by the United Nations from 1969 to 1974, and re-entered United Nations service in 1977 on a five-year fixed-term appointment on secondment from the USSR Government. His appointment was extended for one year expiring on 26 December 1983; early in 1983, he was asked whether he would be in a position to accept a further extension of his contract. On 9 February 1983 the Applicant applied for asylum in the United States of America, and on 10 February 1983 he informed the USSR authorities that he was resigning from all positions he held in the Soviet Government, and that he had made an application to the Government of the United States of America requesting asylum. On 25 October 1983, the Applicant raised the question of further extension of his contract, due to expire on 26 December 1983, or even better, a career appointment. On 23 November 1983 he was informed that it was not the intention of the Organization to extend his fixed-term appointment. In subsequent correspondence, the Applicant relied on a resolution of the General Assembly, resolution 37/126, by which the General Assembly decided "that staff members on fixed-term appointments upon completion of five years continuing good service should be given every reasonable consideration for a career appointment". The Applicant's employment with the United Nations came to an end on 26 December 1983; on 6 January 1984 the Applicant filed an Application to the United Nations Administrative Tribunal. On 9 January 1984, he submitted a personal history form to the United Nations, by way of application for further employment. At this time certain statements by United Nations officials reported in the press suggested that the reason for the cessation of his employment was opposition by the Government of the USSR.

The Advisory Opinion sets out the statement by the Tribunal of the principal contentions of the Applicant and the Respondent, and the legal issues involved in the case. It then proceeds to give the following summary of the Judgement of the Tribunal.

[The President reads paragraphs 10 to 96 of the Opinion ¹.]

I now call upon the Registrar to read the operative clause of the Advisory Opinion in French.

[Le Greffier lit le dispositif en français ².]

Judge Lachs appends a declaration to the Advisory Opinion of the Court. Judges Elias, Oda and Ago append separate opinions to the Advisory Opinion of the Court. Judges Schwebel, Sir Robert Jennings and Evensen append dissenting opinions to the Advisory Opinion of the Court.

In accordance with established practice, the Advisory Opinion has been read today from a mimeographed text; the usual printed edition will be available in due course.

The sitting is closed.

(Signed) NAGENDRA SINGH,

President.

(Signed) Eduardo VALENCIA-OSPINA,

Registrar.

¹ *I.C.J. Reports 1987*, pp. 20-72.

² *C.I.J. Recueil 1987*, p. 72.