International Court of Justice

Request of International Labour Organization for an advisory opinion on:

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)?

WRITTEN STATEMENT BY THE REPUBLIC OF POLAND

May 2024

Introduction

1.1. In its order of 16 November 2023, the International Court of Justice decided that the International Labour Organization (ILO) and the States Parties to the Freedom of Association and Protection of the Right to Organise Convention (No. 87), adopted in San Francisco on 9 July 1948, are considered likely to be able to furnish information on the question submitted to the Court in response to the ILO's request for an advisory opinion on the following question: *Is the right to strike for workers and their organisations protected under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)?*

1.2. The request was submitted by the Director General of the International Labour Office on 13 November 2023, pursuant to a resolution adopted in a ballot by the Governing Body (GB) of the International Labour Office (hereafter, Office) at its special 349th (bis) session. 33 GB members voted in favour of the decision to apply to the ICJ, 21 voted against and two abstained.

1.3. Poland, which is not a member of the Governing Body in the 2021-2024 term, did not take part in the voting. However, it was one of 36 States that requested the Director-General of the Office to include on the agenda of the 349th session of the Governing Body in November 2023, as a matter of urgency, an item regarding a request to the ICJ on a dispute relating to the interpretation of Convention No. 87. On 14 July 2023, the Permanent Representative of Spain to international organisations in Geneva wrote to the Director General of the Office on behalf of the Member States of the European Union and Norway and Iceland on this matter. Subsequently, letters in support of addressing the issue during the 349th session of the GB were submitted by Brazil, South Africa, Argentina, Barbados, Colombia, and Ecuador.

1.4. At its special 349th session (bis) on 10 November 2023, the Governing Body adopted the following decision:

The Governing Body,

Conscious that there is serious and persistent disagreement within the tripartite constituency of the International Labour Organization (ILO) on the interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), with respect to the right to strike,

Recalling that at the origin of the dispute is a disagreement among the Organization's tripartite constituents concerning whether the right to strike is protected under Convention No. 87,

Noting that ILO supervisory bodies have consistently observed that the right to strike is a corollary to the fundamental right to freedom of association,

Seriously concerned about the implications that this dispute has on the functioning of the ILO and the credibility of its system of standards,

Affirming the necessity of resolving the dispute consistent with the Constitution of the ILO,

Recalling that under Article 37, paragraph 1, of the ILO Constitution, "[a]ny question or dispute relating to the interpretation of this Constitution or of any subsequent Convention concluded by the Members in pursuance of the provisions of this Constitution shall be referred for decision to the International Court of Justice",

Recalling the consensual decision of the 320th Governing Body in March 2014, welcoming "the clear statement by the Committee of Experts of its mandate as expressed in the Committee's 2014 report":

"The Committee of Experts on the Application of Conventions and Recommendations is an independent body established by the International Labour Conference and its members are appointed by the ILO Governing Body. It is composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The Committee of Experts undertakes an impartial and technical analysis of how the Conventions are applied in law and practice by member States, while cognizant of different national realities and legal systems. In doing so, it must determine the legal scope, content and meaning of the provisions of the Conventions. Its opinions and recommendations are non-binding, being intended to guide the actions of national authorities. They derive their persuasive value from the legitimacy and rationality of the Committee's work based on its impartiality, experience, and expertise. The Committee's technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for over 85 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions".

Noting that, despite protracted attempts, no consensus has been reached through tripartite dialogue,

Emphasising that Article 37.1 of the Constitution establishes that any referral to the International Court of Justice is for decision on the question or dispute referred,

Expressing the hope that, in view of the ILO's unique tripartite structure, not only the governments of ILO Member States but also the international employers' and workers' organizations enjoying general consultative status in the ILO would be invited to participate directly and on an equal footing in the written proceedings and any oral proceedings before the Court,

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.

1.5. In accordance with the Order of the Court of 16 November 2023, the Government of the Republic of Poland has decided to submit a written statement to the Court. This position relates to legal issues concerning the ILO's request.

II. Substantive and legal background of the proposal

The provisions of Polish law governing the right to strike

2.1. Poland ratified ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise of 1948 on 25 February 1957. The Convention entered into force with regard to Poland on 25 February 1958. Pursuant to Article 241(1) in conjunction with Article 89(1) of the Constitution of the Republic of Poland, Convention No 87 is deemed ratified with a prior consent expressed by a statute. Pursuant to Article 91(2) of the Constitution of the Republic of Poland, an international agreement ratified with a prior consent expressed by statute takes precedence over a law if the law cannot be reconciled with the agreement.

2.2. In Poland, the right to strike is guaranteed in Article 59(3) of the Constitution (Chapter II The Freedoms, Rights and Obligation of Persons and Citizens) of the Republic of Poland. In accordance with this provision, the right to organise labour strikes and other forms of protest within statutory limits has been granted to trade unions. Furthermore, Article 59(4) of the Polish Constitution provides that "the scope of freedom of association in trade unions and employers' organisations and other trade union freedoms may be subject only to such statutory limitations as are permitted by international agreements binding on the Republic of Poland". The right to strike as a human right is explicitly stipulated by Article 233(3) of the Constitution of the Republic of Poland, according to which "when determining the scope of restrictions on human and civil freedoms and rights under a state of disaster, a law may restrict the freedoms and rights set out in (...) Article 59(3) (the right to strike)". In referring to the limitation of human rights and freedoms, the legislator specifically indicates the right to strike. In legal doctrine, the right to strike is indicated as one of the elements of broadly understood freedom of association. Professor L. Florek argues that the constitutional concept of "trade union freedoms" consists, among other things, of the right to strike. This point of view is shared by Professor B. Cudowski, who emphasises that the right to strike should not be perceived solely in terms of the statutory subjective right, but as a right deriving from the freedom of association. Professor Z. Góral, on the other hand, remarks that although Convention No. 87 itself does not expressly stipulate the right to strike based on the statements of ILO supervisory bodies, one may conclude that strikes may be limited or excluded only with respect to workers acting as representatives of public authority.

2.3. Issues concerning the right to strike, as well as the conditions and principles for exercising this right, are regulated in Polish legislation by the Act of 23 May 1991 on Resolution of Collective Labour Disputes. It is worth noting that this law was adopted on the same day as the Trade Unions Act and the Employers' Organisations Act, and therefore constitutes a sort of

supplement to the provisions on freedom of association. These three acts constitute the basic sources of Polish collective labour law.

Personal and material scope of the right to strike

2.4. The definition of a strike provided in Article 17 of the Act on the Resolution of Collective Labour Disputes somewhat defines the personal scope of the right to strike. According to this provision, a strike involves a collective refraining of workers from performing work. Following the 2018 amendment to the Act on Trade Unions, the right to strike has also been granted to other persons performing paid work for an employer. Consequently, not only employees as understood by the Labour Code, but also persons working under civil law contracts, i.e. workers in constitutional terms, may strike. The law does not fully resolve whether workers enjoy a right to strike or whether they may exercise their freedom to decide to organise one. While it is true that the literature on collective labour law refers to the right of workers to strike, the Act itself does not provide instruments for the exercise of this right, for example, in cases where workers are denied the possibility of exercising this right. Such workers cannot ask the courts to affirm their right to strike. This suggests that the right to strike is not a subjective right, but rather a form of freedom, arising from the freedom to associate in trade unions.

2.5. The Act does, however, distinguish between the right to participate in a strike and the right to organise one. The former right is enjoyed by the workers, while the latter is enjoyed by the trade union. The right to strike is an individual right of a worker, which can only be exercised jointly with other workers. On the other hand, trade unions act as hosts in an industrial dispute, taking part in collective bargaining and thus representing the collective interests of workers. Nevertheless, whether a strike is ultimately called depends on the workers themselves. A trade union cannot force workers to participate in a strike, since pursuant to the Act on the Resolution of Collective Labour Disputes, participation in strikes is voluntary (Article 18 of the Act). Moreover, workers must agree to the trade union holding a strike by means of a referendum (Article 20 of the Act).

2.6. As for the subject of a strike, it is equivalent to the subject of a collective dispute. A strike may thus be organised if negotiations and subsequent mediation do not produce an agreement on the scope of demands raised within the framework of an industrial dispute, i.e. concerning working conditions, wages, social benefits and trade union rights and freedoms. On the other hand, a strike aimed at opposing the government's implementation of State policy is not considered a strike within the meaning of the Act. The ILO Committee on Freedom of Association has commented on this issue on many occasions, indicating that so-called political strikes are illegal and are not included under the principles of freedom of association.

Restrictions on exercising the right to strike

2.7. The right to strike is not unconditional and can be restricted. This is directly implied by the Constitution of the Republic of Poland. Pursuant to Article 59(3) of the Constitution, in view of the public welfare, strikes by certain categories of workers or in specified fields may be restricted or prohibited by law. Moreover, in accordance with Article 59(4) of the Constitution, restrictions on the right to strike "are subject only to such statutory limitations as permitted under the international agreements binding on Poland". The foregoing means that this right may be restricted only after two conditions are fulfilled: firstly, the restriction of the right to strike must result from a law, and secondly, the restriction must be permitted under international agreements ratified by Poland.

2.8. Restriction of the right to strike in Polish legislation can be broken down by objective and subjective criteria. The first case refers to a strike's aim, while the second concerns entities that do not have the right to strike.

2.9. The substantive scope of limitations on the right to strike is defined first of all in Article 19(1) of the Act on Resolution of Collective Labour Disputes. Pursuant to this provision, work stoppages resulting from strikes are not allowed at workstations, installations, or machinery where such stoppages could pose a threat to human life and health or State security. The foregoing means that a strike may be prohibited only at certain workstations or locations and not at the entire workplace. Consequently, workers employed at the same plant whose positions do not involve responsibility for human life and health or state security are entitled to strike.

2.10. The Act does not specify which workstations or locations may not participate in strikes. Consequently, the employer is free to determine which positions are subject to this prohibition, constituting an additional restriction on the right to strike. Article 19(1) of the Act provides for exceptions excluding the right to strike according to substantive criteria (workstations, equipment, installations). A consequence of legislators' use of substantive criteria is that the specific group of workers who are denied the right to strike by this provision cannot be determined in advance. According to the opinion expressed in legal literature, Article 19(1) of the Act does not establish a general prohibition of strikes that would apply to specific professional groups or workers performing work in specific workplaces, but instead allows activities that essentially constitute a strike to be forbidden in the case of workers who are obliged to protect the goods referred to in the provision. Legislators have thus limited themselves to indicating the premises for restricting the right to strike. Nevertheless, practice has furnished examples showing that even work stoppages on equipment referred to in Article 19(1) of the Act do not necessarily result in the materialisation of threats, provided a certain critical point is not breached. Moreover, it is important to note the vagueness of the concepts used in the provision, which require an assessment on whether threats to life, health or state security may manifest themselves in the context of a specific situation.

2.11. In substantive terms, restrictions on the right to strike are also set out in Article 19(2) of the Act on the Resolution of Industrial Disputes. According to this provision, strike action is not permitted in the following public institutions:

- the Police,
- the Polish Armed Forces,
- the Internal Security Agency,
- the Intelligence Agency,
- the Central Anti-Corruption Bureau,
- the National Tax Administration, which includes customs personnel and tax inspectors,
- Military Counterintelligence,
- Military Intelligence,
- the State Protection Service,
- the Prison Service,
- the Border Guard,
- the Parliamentary Speaker's Guard,
- organisational units of fire brigades.

The institutions listed above are organised as military units or similar and their activities are

closely associated with ensuring state security. As a result, the inclusion of their uniformed and civilian workers in the ban on strikes does not raise doubt.

2.12. As for subjective restrictions on the right to strike, it should be recalled that international agreements ratified by Poland indirectly allow for applying such restrictions to the police and armed forces, to public servants in the interests of public or state security, to workers in senior positions whose activities are generally considered to be related to policy-making or managerial functions, as well as to workers whose duties are of a highly confidential nature.

2.13. The Polish legislator, on the other hand, adopted a rather broad approach to the issue of restricting the right to strike in a substantive context. Pursuant to Article 19(3) of the Act on Resolution of Collective Labour Disputes, all workers of the Polish state, central and local government administrations, courts and prosecutor's offices are deprived of the right to strike, whether they are public servants or not. In addition, workers and officers whose right to form trade unions has been restricted due to specific labour regulations concerning their occupations (e.g. employees of the Supreme Audit Office) may not strike.

2.14 Polish legislation on the right to strike has been reviewed by the Committee on Freedom of Association on many occasions, most recently in connection with a complaint lodged by The Independent and Self-Governing Trade Union "Solidarność" (NSZZ "Solidarność") on 14 January 2015 about an alleged infringement of ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise of 1948, and ILO Convention No. 151 concerning Protection of the Right to Organise and the Procedure for Determining Conditions of Employment in the Public Service of 1978 (Case No. 3111). This issue was also the subject of an ILO Mission to Poland on 14-16 May 2014 to provide technical assistance at the request of the Polish Government.

2.15 The ILO Mission found that restrictions on public sector workers' right to strike should be limited to State officials exercising powers on behalf of the State. However, ILO supervisory bodies have not defined the exact meaning of this term. One way to decide which state functionaries should be denied the right to strike would be to establish a tripartite body responsible for determining exactly which officials wield authority on behalf of the state. In the case of state functionaries recognised to be exercising such powers and thus denied the right to strike, compensatory guarantees should be provided, i.e. mechanisms acceptable to all parties, that could lead to a final settlement of the dispute.

2.16. In this context, the Committee on Freedom of Association, in Case No. 3111, stated that restrictions on the right to strike in the public sector should apply only to public employees (public servants) holding office on behalf of the State and recommended that the Government should consider establishing a procedure to determine exactly which public employees specified in Article 19(3) of the Act on Resolution of Labour Disputes and in Article 2 of the Civil Service Act of 21 November 2008 exercise a position of an authority on behalf of the State, and therefore could be subject to possible restrictions of the right to strike pursuant to Article 78(3) of the Civil Service Act and Article 19(3) of the Act on the Resolution of Industrial Disputes.

Proceedings before the Constitutional Tribunal

2.17. A motion by NSZZ "Solidarność" to examine the compliance of Article 19(3) of the Act on resolving collective labour disputes with the Constitution of the Republic of Poland (file reference number K 23/14) is currently awaiting a ruling of the Constitutional Court. NSZZ "Solidarność" applied to the Constitutional Tribunal to examine the compliance of Article 19(3)

of the Act of 23 May 1991 on Resolution of Collective Labour Disputes with, among others, Article 59(4) of the Constitution—in terms of compliance with Articles 2[1] and 11 of ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise and Articles l(2) and 9 of the International Labour Organisation Convention No. 151 concerning the protection of the right to organise and the procedure for determining conditions of employment in the public service of 27 June 1978, ratified by Poland on 12 July 1982. Pursuant to the challenged provision, the right to strike does not apply to employees working for state authorities, central and local government administration, courts and the public prosecutor's office. The applicant claims that the prohibition of the right to strike determined in Article 19(3) of the Act on the Resolution of Collective Labour Disputes is contrary to Articles 2 and 11 of Convention No. 87 because it is too broadly defined.

2.18. In case K 23/14, the position was presented by the Polish Attorney General's Office. It states that "(...) the Convention (No. 87) refers to freedom of association and the protection of trade union rights. A broad understanding of the freedom of association also includes the right to strike. Article 2 of the Convention guarantees workers the right to form organisations of their own choice and to join them, subject to compliance with their statutes. It does not explicitly include any restrictions on the right to strike, but on freedoms of association in the broadest sense. Article 11 of the Convention implies that each Member of the International Labour Organization for which the Convention is in force undertakes to take all necessary and appropriate measures to ensure the free exercise of trade union rights by workers and employers. A special arrangement applies to the armed forces and the police, for which national legislation will determine the extent to which guarantees provided for in the Convention can be applied (see: Article 9(l) of Convention No. 87). A literal interpretation of Article 11 of Convention No. 87 implies that each member of the Convention undertakes to apply all necessary and appropriate measures to ensure that workers are free to exercise their trade union rights. The regulatory distinction made in Article 9 of Convention No. 87 between the armed forces and police from other workers (Article 11 of Convention No. 87) indicates that, under the Convention, these categories should be treated differently. It should be emphasised that this Convention does not entail a prohibition against its Members' right to regulate the prohibition of strikes in certain institutions, but only an obligation to apply adequate and necessary measures. In principle, the legislator has granted the right to strike, excluding it solely based on the exceptions listed in Article 19(3) of the Act on the Resolution of Collective Labour Disputes, while granting the right to protest and stage solidarity strikes (as subsidiary forms) without violating the obligation to apply adequate and necessary measures."

2.19. In turn, the Sejm's position on this issue states that "(...) the Sejm wishes to emphasise that the right to strike is not explicitly regulated or expressed as a subjective right in ILO conventions. The literature on the subject indicates two reasons for this situation. 'Firstly, the ILO promotes dialogue-based methods for resolving disputes between employers and workers. Secondly, the enactment of a convention, i.e. an act of a binding nature, makes sense when its provisions are likely to be adopted by all or at least most ILO members. Meanwhile, it appears impossible in practice to develop detailed provisions regulating the right to strike that could be universally accepted. The legislation and practice of countries on this subject (due to differences in socio-political systems, degree of economic development) are too diverse to allow for uniform legal solutions. Consequently, no attempt has been made to normatively regulate the right to strike, as it is evident that any action in this regard would be doomed to failure. Nevertheless, the right to

[1] In the subsequent correspondence NSZZ „Solidarność" corrected that they meant art. 3 not 2.

strike is indirectly recognised in ILO documents. The Committee of Experts on the Application of Conventions and Recommendations and the Committee on Freedom of Association have long taken the position that strikes are a legitimate means to defend workers' interests and that the right to strike is included in Article 3 of Convention No. 87 as an element of the right of trade unions to organise their activities' (M. Kurzynoga, *Conditions for the Legality of a Strike*, Warsaw 2011, pp. 26-27). (...) Although the Convention in question does not enact a statutory right to strike, the ILO supervisory bodies recognise the existence of this right based on an interpretation of ILO Convention No. 87, and in particular from the provisions—not cited by the applicant as the basis for control—of Article 3 of ILO Convention No. 87, pursuant to which trade unions have the right to freely organise their activities and formulate programmes to support and defend their members, and the public authorities are obliged to refrain from any interference that would restrict this right or hinder its exercise within the limits of the law (J. Skoczyński, "Representation of the rights and interests of public service employees" [in:] G. Goździewicz, *Representation of employee rights and interests*, Toruń 2001, p. 277). In the opinion of the Sejm, Article 2 of ILO Convention No. 87 therefore constitutes an inadequate standard of control in the proceedings concerning Article 19(3) of the Act on the Resolution of Collective Disputes. On the other hand, it seems permissible to consider the constitutional problem formulated by the applicant in the light of Article 11 of Convention No. 87. This provision imposes an obligation on the signatory states to take appropriate and necessary measures to ensure that workers freely exercise their trade union rights. The right to strike is undoubtedly one of the elements of broadly understood freedom of association. At the same time, it must be emphasised that, in the context of ILO Convention No. 87, the ILO Committee on Freedom of Association has concluded that the acceptance of freedom of association for civil servants employed in public service is not tantamount to granting these workers the right to strike (Digest 2006, *op.cit.*, paragraph 572). The permissible scope of exercising the right to strike continues to be a subject of lively debate among the social partners at ILO forums (see "Final Report of the Meeting. Tripartite Meeting on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in relation to the right to strike and the modalities and practices of strike action at national level", Geneva, 23-25 February 2015).

III. Complaint against the Government of Poland for failing to comply with ILO Convention No. 87

3.1. At the 68th session of the International Labour Conference, held in Geneva from 2 to 23 June 1982, two workers' delegates, Mr. Marc Blondel from France and Ms. Liv Buck from Norway, filed a complaint against the Government of Poland, under Article 26 of the ILO Constitution, for failing to comply with ILO Convention No. 87 concerning Freedom of Association and the Protection of the Right to Organise of 1948. The complainants alleged, among other things, that following the introduction of martial law in Poland, the right to strike had been suspended while workers and trade unionists had been arrested and convicted for participating in strikes. The complainants claimed that such action was not compliant with Article 3 of Convention No. 87. On 27 May 1983, the Governing Body decided to establish a Commission of Inquiry to examine the case under Article 26, paragraph 3, of the ILO Constitution.

3.2. In 1986, the Governing Body adopted the report of the Commission of Inquiry on this issue. In that report, the Commission noted that "Convention No. 87 provides no specific guarantees concerning strikes. However, the ILO supervisory bodies have always taken the view—shared by this Commission—that the right to strike constitutes one of the essential means that should be

available to trade union organizations in accordance with Article 10 of the Convention for furthering and defending the interests of their members. An absolute prohibition of strikes thus constitutes, in the view of Commission, a serious restriction on the right of trade unions to organise their activities (Article 3 of the Convention) and, moreover, is in conflict with Article 8, paragraph 2, under which 'the law of the land shall not be such to impair, nor shall it be so applied as to impair the guarantees provided for in this Convention'" (paragraph 517). The report further explains that: "(...) the Commission must examine these provisions (concerning the restriction of the right to strike) to determine whether they impose restrictions which call in question the right to strike and, consequently, the right of trade unions to organise their activities (Article 3 of Convention No. 87) for furthering and defending the interests of their members (Article 10 of the same Convention)" (paragraph 553 of the report). The Commission recommended the Government to amend the law in the near future with a view to ensuring the clear and full recognition of rights established by Conventions No. 87 and No. 98, listing among them "the right of trade unions to organise their activities, which implies the elimination of the unduly strict limitation imposed upon the exercise of the right to strike" (paragraph 576 of the Report).

3.3. Despite the People's Republic of Poland's suspension of relations with the ILO following the decision of the Governing Body to set up the Commission of Inquiry and it ignoring of the report, neither the Government of the People's Republic of Poland nor that of the Republic of Poland has ever challenged the Commission of Inquiry's recommendation on the right to strike. In reports on the application of Convention No. 87 submitted under Article 22 of the ILO Constitution and in positions presented before the Committee on the Application of Standards of the International Labour Conference, the Polish government provided information on amendments to legislation on the right to strike and referred to comments by the ILO Committee of Experts on the Application of Conventions and the recommendation relating to this right.

IV. General conclusions

4.1. The Government of Poland's opinion is that the right to strike is not explicitly articulated in the provisions of ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise. Nevertheless, it is an element of the freedom of association in trade unions. The right to strike can be derived from provisions of ILO Convention No. 87 as a consequence of the freedom to organise.

4.2. As the Constitution of the Republic of Poland permits only such restrictions on the freedom of association as provided for in ratified international agreements, the Court's advisory opinion concerning the question of whether the right to strike is protected by Convention No. 87 will be particularly relevant for the Polish legal order.

4.3. The Court's advisory opinion will also be essential for legal certainty and the efficient functioning of the ILO's monitoring system.

4.2. The Government of Poland requests the Court to respond to the ILO's request, taking into consideration the comments presented above.