



**World Health Organization  
Organisation mondiale de la Santé**

FIFTIETH WORLD HEALTH ASSEMBLY

Provisional agenda item 27.1

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**Collaboration within the United Nations system  
and with other intergovernmental organizations**

**Request for an advisory opinion from  
the International Court of Justice**

In 1993, the Health Assembly requested an advisory opinion from the International Court of Justice on the legality of the use of nuclear weapons by a State in war or armed conflict. The Court found that it was not able to give the advisory opinion requested for the reasons briefly summarized in this document.

1. In resolution WHA46.40, the Health Assembly requested an advisory opinion from the International Court of Justice on the following question:

*In view of the health and environmental effects, would the use of nuclear weapons by a State in war or other armed conflict be a breach of its obligations under international law including the WHO Constitution?*

2. On 8 July 1996, the Court found that it was not able to give the advisory opinion requested. The Court stated that three conditions must be satisfied before it could have jurisdiction to consider requests for advisory opinions from specialized agencies:

- (1) the agency requesting the opinion must be duly authorized to request opinions from the Court;
- (2) the opinion requested must be on a legal question; and
- (3) the question must be one arising within the scope of the activities of the requesting agency.

The Court found that the first two conditions had been met, namely:

- (1) that WHO has been duly authorized, under Article 76 of the WHO Constitution and Article 96 of the United Nations Charter, to request advisory opinions of the Court;
- (2) the question raised a legal question suitable for consideration by the Court. The political aspects of the question did not deprive it of its legal character.

3. However, with respect to the third condition, the Court found that although WHO is authorized under its Constitution to deal with the **effects** on health of the use of nuclear weapons and to take preventive measures aimed at protecting the health of populations in the event such weapons are used, the question put to the Court did not relate to the **effects** of the use of nuclear weapons on health but to the **legality** of the use of such weapons in view of their health and environmental effects.

4. The Court accordingly found that it was unable to give the advisory opinion requested of it by the Health Assembly. Copies of the Court's opinion will be available during the Health Assembly in English and in French for those delegations wishing to review the full text of the opinion.

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