

October 2025



South Africa's case on the Right to Strike at the ICJ

Right to strike – International Court of Justice – Convention 87

On Monday 6 October 2025, Professor Halton Cheadle of Cheadle Thompson & Haysom Inc. together with Professor John Dugard, led by Ambassador Vusi Madonsela, will present South Africa's case to the International Court of Justice (ICJ) on the request for an advisory opinion on the Right to Strike under International Labour Organisation (ILO) Convention No. 87.

The request for the advisory opinion arises as a result of the International Organisation of Employers (IOE), the constituent employer body of the ILO, disputing the Committee of Experts on the Application of Conventions and Recommendations' (CEACR) interpretation of articles 3 and 10 of Convention 87 to include a circumscribed right to strike. The proceedings before the ICJ take place pursuant to a resolution of the 349th Session of the Governing Body of the ILO to request the ICJ, in accordance with article 37(1) of the ILO Constitution, to render urgently an advisory opinion on the following question: *'Is the right to strike of workers and their organisations protected under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)?'*

The South African oral submissions will take place from 15h00 – 15h30 on Monday, 6 October 2025, and will be as follows:

- Ambassador Vusi Madonsela will briefly discuss the South African Government's interest in the matter, which includes South Africa relying on ILO jurisprudence on Freedom of Association in drafting its labour rights in the 1994 and 1996 Constitutions and the 1995 Labour Relations Act, in particular the inclusion of the right to strike;
- Professor John Dugard will address the principles of treaty interpretation under the Vienna Convention on the Interpretation of Treaties applicable to interpreting Convention 87, submitting that the Convention, while not specifically referring to a right to strike, includes it; and
- Professor Halton Cheadle will apply those principles in respect of the wording of Convention 87 in its context and its objects and purpose, subsequent practice and general principles of international law to argue that it includes the right to strike.

The ICJ proceedings will be streamed live on:

- [the website of the International Court of Justice](#);
- [the section of the Journal of the United Nations dedicated to the International Court of Justice](#); and
- [on UN Web TV](#).

Click [here](#) to view the South African Government's written statement submitted to the ICJ, and [here](#) to view its responses to the submissions made by other States.