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The jurisdiction and advisory functions of the Permanent Court of International Justice: Historical development and effect

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■ **Abstract.** The study focused on clarifying the principal issues concerning the origin of the Permanent Court jurisdiction, concentrating on its sources, constraints, state recognition, exclusive authority to render advisory opinions, legal nature and purpose. The study used a comprehensive approach, including an analysis of historical documents, statutes, and regulations of the Permanent Court. The research has discerned distinctive elements of this body's jurisdiction and its involvement in shaping the international legal framework. A comparative analysis of advisory opinion mechanisms in different legal systems was conducted, which allowed identifying the peculiarities and uniqueness of the Permanent Court's approach. The research determined that the authority of the Permanent Court was characterised by flexibility, allowing states to determine the level of its binding nature. Its advisory jurisdiction was an innovative mechanism that contributed to the effective functioning of the League of Nations by developing valuable legal solutions. Although the advisory opinions were not binding, they had considerable authority and significance for the development of international cooperation. The advisory jurisdiction was established independently of other legal systems, which emphasised its uniqueness. The research has established that the Permanent Court has significantly contributed to the evolution of jurisprudence and methods of peaceful conflict resolution. Its experience and practice have laid the foundation for the modern system of justice and the fundamental principles of law, promoting cooperation and mutual understanding in international relations. This study's practical significance is found in its examination of the Permanent Court's role in advancing international justice and peaceful dispute resolution mechanisms, which may inform enhancements to contemporary legal systems and international relations

■ **Keywords:** competence of judicial bodies; global relations; advisory jurisdiction; settlement of international disputes; advisory opinion

■ Introduction

The examination of the jurisdiction of the Permanent Court of International Justice (PCIJ) has facilitated an understanding of the operational dynamics of this historically significant institution, as well as the evolution of international justice principles and their influence on contemporary legal frameworks. The examination of the PCIJ's jurisdiction is especially pertinent given the contemporary challenges posed by globalisation, the increasing frequency of international conflicts, and the necessity for efficient legal conflict resolution. Understanding the jurisdiction of the PCIJ is also important for exploring the relationship between law and state sovereignty. The PCIJ operated in an era when the notion of state autonomy

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was dominant in global relations. An analysis of how the PCIJ balanced the importance of guaranteeing effective international justice with respect for the principle of non-interference in the internal affairs of states can provide valuable lessons for contemporary international tribunals dealing with similar challenges in today's multipolar world. The PCIJ ceased to operate in 1946, its legacy remains relevant today. The legal principles and procedures established by the PCIJ have become the basis for many modern international judicial institutions.

International judicial bodies derive their authority and operational scope from jurisdiction, according to J.A. Hofbauer's (2020) analysis. It determines which cases the court has the right to consider, which decisions it can make and which legal rules it can apply. The jurisdiction of the PCIJ was delineated in the Statute of the Court[1] and many international accords, although it has also altered throughout the Court's operations, influenced by worldwide occurrences and the progression of law.

M.C. Bassiouni (2024) conducted a comprehensive examination of the draft criminal code and statute for the tribunal, emphasising the necessity to enhance mechanisms for addressing crimes. This research represents a significant advancement in criminal law, as the author has meticulously analysed the procedures of culpability for international crimes, specifically genocide and crimes against humanity. E. Strauss (2022) analysed how NGOs influence judicial systems through social movements that advance human rights and justice, potentially enhancing international tribunal effectiveness.

J.J. Crawford *et al.* (2023) examined both the court's judicial and advisory jurisdiction, focusing on how these functions help to ensure the peaceful resolution of disputes. The study also emphasised the importance of the International Court in strengthening the legal order through the development of law. M.J. Oyarzabal (2024) proposed to review the existing procedure for the election of judges to the International Court, focusing on the need for reforms to increase transparency and fairness. The author developed recommendations for reforming the process without amending the statute, in particular through better control by the international community and more transparent appointment of judges.

The study by S. Fobbe (2022) presents unique corpora of judgments for the International Court and the PCIJ, which provide new opportunities for empirical analysis of legal decisions. The Article compares the jurisdictional functions and the impact of both courts on the development of law, in particular, the format and content of their decisions. H.A. Ikonomou *et al.* (2023) focuses on the diplomatic efforts and legal initiatives of the Scandinavian states, which played an important role in shaping legal norms through the PCIJ. The authors demonstrate how these nations have employed diplomacy to influence the legal framework, highlighting the significance of the PCIJ as both a diplomatic and legal tool.

Despite a significant number of studies on the PCIJ, this topic remains insufficiently studied in legal science. This is especially true of jurisdictional issues, which have not yet received a comprehensive and in-depth analysis in Ukrainian research. This gap in scientific knowledge creates the need for a study that would take into account both foreign experience and the specifics of the Ukrainian legal system and its integration into the world.

Materials and Methods

This scientific work is founded on the examination of primary documents that directly document the operations of the PCIJ, such as the Statute of the Permanent Court[2], as well as the Covenant of the League of Nations[3], Sixteen report of the Permanent Court of International Justice (1945). These materials enabled the investigation of the origins of advisory jurisdiction from its inception to its codification in the Statute[4], as well as an understanding of how the Court interpreted and applied the pertinent provisions in specific cases, the arguments employed to justify its positions, and the implications of these conclusions for international law and interstate relations.

An integral part of this scientific work was the analysis of the works of leading legal scholars of the period under study of the first half – mid-twentieth century, in particular, M.O. Hudson (1923; 1931; 1943), A.H. Feller & E.W. Allen (1933), N.W. Rowell (1933), H. Lauterpacht (1993). Their works created a theoretical basis and reflected various views on the place and significance of advisory jurisdiction in the system of law. This allowed for a comprehensive understanding of the context and issues of this institution through the prism of its vision during the period of direct functioning of this court and its impact on subsequent international institutions.

A comparative analysis was carried out to identify the common and distinctive features between the

[1] Statute of the Permanent Court of International Justice. (1929, September). Retrieved from https://www.un-ilibrary.org/content/books/9789210559096s003-c002/read
[2] Ibidem, 1929..
[3] Covenant of the League of Nations. (1919, June). Retrieved from https://www.ungeneva.org/en/covenant-lon.
[4] Statute of the Permanent Court of International Justice. (1929, September). Retrieved from https://www.un-ilibrary.org/content/books/9789210559096s003-c002/read.

advisory jurisdiction of the PCIJ and similar mechanisms in national legal systems and other international institutions. The experience of France and the United Kingdom, which have institutions that provide advisory opinions, as well as other organisations such as the Universal Postal Union and the International Civil Aviation Organisation (ICAO), was studied. This made it possible to assess the uniqueness and specificity of the PCIJ advisory jurisdiction in the context of other legal systems, as well as to identify potential sources of its formation and borrowing.

This study involved such key methods as historical and genetic analysis, process tracing and comparative legal analysis. The historical and genetic analysis allowed us to trace the formation of the jurisdiction of the PCIJ in the context of historical events and political processes of the time, identify the factors that influenced its formation and development, and find out how the attitude of states and the scientific community towards it has transformed. The legal analysis was aimed at studying the legal norms governing the jurisdiction of the PCIJ and their interpretation by the Court, which allowed defining the legal framework and boundaries of this institution, as well as analysing specific cases such as The Mavrommatis Palestine Concession[1], "Case of the S.S." Wimbledon"[2], "Status of the Eastern Carelia"[3], "Legal Status of the Eastern Greenland"[4] (1933), in which it was applied, including the first request for an advisory opinion on the legality of the admission of a delegate from Dutch workers and the Eastern Karelia case, where the Court determined the limits of its competence. The comparative legal approach has helped to identify similarities and differences between the jurisdiction of the PCIJ and similar mechanisms in national legal systems and other international organisations, which has contributed to a deeper understanding of its features and significance in the evolution of law.

Results and Discussion

The alteration of political foundations, emerging economic challenges confronting the international community at regional and sub-regional tiers, a transformation in the trajectory of international relations, and intensifying conflicts among states – these factors, perpetuating existing trends, have culminated in the establishment and enhancement of international relations. The creation of the PCIJ was a significant advancement in the ongoing endeavour to devise mechanisms for the peaceful resolution of international conflicts (Arhire, 2023).

The establishment of the PCIJ originated from the 1919 Paris Convention[5] on air navigation regulation. Article 14 of the Covenant of the League of Nations[6] to create an International Court for dispute resolution (Hudson, 1943). A key debate centred on jurisdiction, leading to a compromise where general jurisdiction remained voluntary. States could only bring disputes to the Court by mutual agreement. However, Article 36 included an optional clause allowing states to accept compulsory jurisdiction reciprocally through signed reservations.

Article 36 stipulated that the Court's compulsory jurisdiction could be limited to disputes of a legal nature and applied to such categories of legal disputes as: interpretation of international treaties, questions of law, fact-finding (the Court may establish facts that, if confirmed, may indicate a breach by a state of its international obligations), and determination of the amount of compensation. As of January 1, 1932, forty-seven nations had ratified the Protocol on the mandatory jurisdiction of the Court, including France, Belgium, Germany, Italy, Spain, Austria, and Hungary. Some countries signed with reservations, some without. The Protocol was in force between thirty-six states (Rowell, 1933).

The origins of the Court's jurisdictional authority have profoundly impacted its functions. The Court's jurisdiction is founded on four principal categories of documents. The first group included the Covenant[7] and the Statute as amended in 1920[8], according to which the Court was empowered to resolve any disputes submitted to it by the parties and to give opinions. The second group of sources consisted of international treaties and conventions[9,10,11]. A notable source

[1] Judgment of the Permanent Court of International Justice in Case "Greece v. Britain". (1924, August). Retrieved from http://www.worldcourts.com/ППІМП/eng/decisions/1924.08.30_mavrommatis.htm.
[2] Judgment of the Permanent Court of International Justice in Case "S.S. "Wimbledon": United Kingdom, France, Italy & Japan v. Germany". (1923, August). Retrieved from http://www.worldcourts.com/ППІМП/eng/decisions/1923.08.17_wimbledon.htm.
[3] Advisory Opinion of the Permanent Court of International Justice in Case "Status of the Eastern Carelia". (1923, July). Retrieved from http://www.worldcourts.com/ППІМП/eng/decisions/1923.07.23_eastern_carelia.htm.
[4] Judgment of the Permanent Court of International Justice in Case "Legal status of the Eastern Greenland. Denmark v. Norway". (1933, September). Retrieved from https://worldcourts.com/pcij/eng/decisions/1933.04.05_greenland.htm.
[5] Paris Convention. (1919, October). Retrieved from http://library.arcticportal.org/1580/1/1919_Paris_conevention.pdf.
[6] Covenant of the League of Nations. (1919, June). Retrieved from https://www.ungeneva.org/en/covenant-lon.
[7] Ibidem, 1919.
[8] Statute of the Permanent Court of International Justice. (1920, December). Retrieved from https://www.refworld.org/legal/constinstr/lon/1920/en/57478.
[9] Covenant of the League of Nations. (1919, June). Retrieved from https://www.ungeneva.org/en/covenant-lon.
[10] Paris Convention. (1919, October). Retrieved from http://library.arcticportal.org/1580/1/1919_Paris_conevention.pdf.
[11] General Postal Union. (1874, October). Retrieved from https://avalon.law.yale.edu/19th_century/usmu010.asp.

of the Court's jurisdiction was the General Act for the Pacific Settlement of International Disputes[1], enacted by the League Assembly in 1928 and effective from 1930 for the governments that signed and ratified it. This legislation pertains to all forms of international conflicts. The last source that established the jurisdiction of the PCIJ was international agreements that stipulated the resort to an alternative international court (International Court of Justice, 2024). As noted by N.W. Rowell (1933), such an appeal could be made either in an agreement on the establishment of another court or in another relevant document. Such appeals could relate to jurisdictional issues, decisions beyond the scope of authority (Permanent Court of International Justice, 1945), or the merits of the case. Table 1 summarises the main sources relied upon by the PMC in exercising its jurisdiction. These sources included both constituent documents and international agreements that defined the Court's competence to resolve various categories of disputes.

Table 1. Sources of the jurisdiction of the Permanent Chamber of International Justice

Source	Description
Covenant of the League of Nations and Statute of the PCIJ 1920[2]	The court possessed jurisdiction to adjudicate all matters that the parties could submit to it. The Covenant granted the Court the authority to resolve disputes and issue advisory opinions, while the Statute of the PCIJ 1920[3] delineated the resolution of conflicts.
International treaties and conventions	It was assumed that certain disputes or questions in connection with them, arising between countries, would be referred to the Court for consideration.
1928 General Act[4] (pacific settlement of international disputes)	Covered all categories of international disputes.
International agreements	An appeal to another international court was envisaged.

Source: created by the author

To comprehend the importance of the Court and the extensive array of topics under its jurisdiction, it is prudent to consult the yearly reports, which include data on some treaties, conventions, and other papers presented to the Court. The Sixteen report of the Permanent Court of International Justice (1945) documented over six hundred such sources. It is important to acknowledge that, under Article 34 only states were participants in the proceedings. Nonetheless, a case initiated by a private individual could be contemplated, contingent upon the Court acknowledging that a state-endorsed a claim from its citizen against a foreign state and, on behalf of its citizen, pursued the proceedings as a matter of "international character". This was the circumstance in the matter of "Greece v. Britain"[5], where the Greek government filed a lawsuit against the British government, arguing that it had unlawfully failed to recognize the rights belonging to Mavrommatis and demanding monetary compensation. The British government raised a preliminary objection to the Court's jurisdiction, contending that the matter involved a disagreement between a Greek citizen and the British government, rather than a dispute between the United Kingdom and another member of the League. Nonetheless, the Court determined that while the case initially included a conflict between Mavrommatis and the United Kingdom, it subsequently evolved into an international legal dispute owing to the involvement of the Greek government, so transforming it into a dispute between two sovereign states. Thus, when a state commits to safeguarding the rights of its citizen and commences international litigation on their behalf, it is fundamentally defending its rights and interests within the relations framework.

Having studied the Statute 1929[6] in terms of the procedure for applying to the Court and initiating proceedings, it is important to emphasize that Article 40 of this document regulates the ways of submitting cases to the Court. Parties can bring matters before the Court through either a special agreement notification or a written application to the Registrar. Both methods require specifying the dispute and parties involved, with their consent to the Court's jurisdiction. Alternative application procedures also exist. This may constitute a unilateral statement by any state asserting the right to commence proceedings under the optional clause on the mandatory

[1] General Act (Pacific Settlement of International Disputes). (1928, September). Retrieved from https://cil.nus.edu.sg/wp-content/uploads/2017/08/1928-General-Act-of-Arbitration.pdf.
[2] Statute of the Permanent Court of International Justice. (1920, December). Retrieved from https://www.refworld.org/legal/constinstr/lon/1920/en/57478.
[3] Ibidem, 1920.
[4] General Act (Pacific Settlement of International Disputes). (1928, September). Retrieved from https://cil.nus.edu.sg/wp-content/uploads/2017/08/1928-General-Act-of-Arbitration.pdf.
[5] Judgment of the Permanent Court of International Justice in Case "Greece v. Britain". (1924, August). Retrieved from http://www.worldcourts.com/ППІМП/eng/decisions/1924.08.30_mavrommatis.htm.
[6] Statute of the Permanent Court of International Justice. (1929, September). Retrieved from https://www.un-ilibrary.org/content/books/9789210559096s003-c002/read.

jurisdiction of the Court, or an application filed under any treaty or convention that includes provisions on the Court's jurisdiction. An example, Denmark v. Norway[1], which was brought to the Court on 12 July 1931 on the basis of an optional reservation. The subject of dispute in this case was the legal status of Eastern Greenland. An illustration of proceedings initiated on the basis of a treaty or convention is the Wimbledon Case[2]. This case emerged during the Treaty of Versailles, wherein the PCIJ addressed matters concerning sovereignty, the incorporation of treaty duties into domestic law, and jurisprudence pertaining to the utilisation of international channels. The Court proceedings may also be commenced at the request of the Council or the Assembly for an opinion. Considering the aforementioned, a distinct and highly contentious facet of the Court's jurisdictional authority was its ability to issue opinions (Trindade, 1945).

The preliminary draft of the Court's Statute[3], developed by the Advisory Committee of Jurists, stipulated in Article 36 would issue advisory views on any international subject or dispute presented by the Council or the Assembly (International Court of Justice, 2024). This provision has ignited intense discussion over the alignment of advisory roles with the primary objective of the judicial entity. Concerns were raised that such powers could evolve into a system of mandatory jurisdiction. As a result of these disagreements and "the desire to avoid involving the Court in an area that had no clearly defined international precedent and no foreseeable future" (Aljaghoub, 2005), the Assembly decided to remove the advisory power from the Statute. The PCIJ quickly resolved concerns about its advisory powers by definitively establishing its authority to issue such opinions in its first ruling.

The issue of advisory jurisdiction again proved to be one of the most difficult during the development of the PCIJ Regulations. In the 1924 Regulations, jurisdiction was regulated by Articles 71-74. Thus, the advisory jurisdiction was provided for in Article 14 defined the relevant procedure. Statute 1929[4] were adopted and entered into force in 1936, which, among other things, consolidated the established practice of the PCIJ with regard to opinions. Articles 65-68 were added to the Statute, which confirmed the provisions of the 1926 Rules of Court and established rules and procedures for requesting and giving advisory opinions. As for the procedure for applying to the Court for an advisory opinion, according to Article 65, "the question on which the advisory opinion of the Court is sought shall be submitted in the form of a written request signed by the President of the Assembly, the President of the Council of the League or the Secretary-General of the League on behalf of the Assembly or the Council. The request shall clearly state the question on which an opinion is sought and shall be accompanied by all documents capable of clarifying the question". Upon receipt of the request, the Court analysed it and decided whether it was appropriate to give an advisory opinion. This decision was made at the Court's sole discretion and taking into account the special criteria set out in the Protocol. In general, the clarification of the rules for giving advisory opinions under the 1929 Protocol contributed to the clear, consistent and effective performance of this important function of the Court, and strengthened the role of the Court in promoting the rule of law in international affairs, as noted by M.O. Hudson (1931). During the entire period of its active work from 1920 to 1946, the Court issued 27 advisory opinions, which dealt with a wide range of problems, many of which were of international importance. This is almost as many interstate disputes as the Court considers. Therefore, the main and controversial issue for many scholars and lawyers was the legal nature of these opinions and the purpose of their introduction. As noted by Judge M.O. Hudson (1931) in his report on the Court's eight-year work, an opinion is what it claims to be, i.e., advisory, and it is in no way a judgment under Article 60, nor a judgment under Article 59. An essential addition was the description of the Court's work, in which M.O. Hudson (1931) drew attention to the number of opinions given and the fact that the peculiarity of the Court's jurisdiction will be established as an important part of its work.

The Permanent Court was the first judicial body with such exclusive advisory competence. According to many scholars, the purpose of introducing advisory jurisdiction was to assist the Council and Assembly of the League in clarifying legal issues related to disputes between states that were referred to it. The paper by A. Aust (2010) highlights the significance of advisory jurisdiction for the League of Nations, a predominantly political entity, which sought to mitigate decision-making challenges by consulting the PCLJ on judicial matters.

Since advisory jurisdiction was a new instrument in the judicial system, like anything new, it was not

[1] Judgment of the Permanent Court of International Justice in Case "Legal status of the Eastern Greenland. Denmark v. Norway". (1933, September). Retrieved from https://worldcourts.com/pcij/eng/decisions/1933.04.05_greenland.htm.
[2] Judgment of the Permanent Court of International Justice in Case "S.S. "Wimbledon": United Kingdom, France, Italy & Japan v. Germany". (1923, August). Retrieved from http://www.worldcourts.com/ППІМП/eng/decisions/1923.08.17_wimbledon.htm.
[3] Statute of the Permanent Court of International Justice. (1929, September). Retrieved from https://www.un-ilibrary.org/content/books/9789210559096s003-c002/read.
[4] Ibidem, 1929.

always clear and raised many questions. Lawyers, in particular, the vast majority of them from America, who were hesitant to join the Permanent Court protocol (Fitzmaurice & Tams, 2013), criticised this innovation and believed that revisiting old ideas about the judicial system could undermine the credibility of the Court, and preferred to limit the Court's work to traditional powers to resolve disputes between specific parties. The Senate's apprehensions on potential interference in domestic matters precluded the United States from joining the Permanent Court in the 1920s. President Roosevelt was denied by the Senate when he attempted to associate the United States with the Permanent Court in 1935 (Jacoby, 1936).

However, it was not only American jurists who held the position that advisory opinions could not be part of the court's functions due to their non-binding nature. Judge Ch. De Visscher (1929) also shared this view. As the advisory opinion was merely the Court's interpretation of certain controversial issues, it prompted many jurists, including the Court itself, to reflect on the binding nature of the decisions and their significance as an element of the judicial function. According to many researchers and lawyers, the key was the understanding of the concept of "judicial function". Judge M.O. Hudson (1931), who positively perceived the new possibility of the Court to give opinions, noted that the term "judicial function" does not have a clear definition (Gişi, 2016). He outlined key judicial qualities across legal systems: public decision-making, stakeholder participation, thorough legal analysis with reasoned judgments, objectivity, and impartiality. Despite all the debate around the PCIJ, J. Hostie (2017) believes that in its final form, the PCIJ was nothing more than the most powerful technocratic advisory body at the disposal of the Council and the Assembly. The debate over the jurisdiction of the PCIJJ reflected a difficult balance between the need for effective international justice and the need to respect the sovereign rights of states. Proponents of advisory jurisdiction emphasised its importance for the functioning of the League, the development of law and the promotion of the peaceful settlement of disputes. Conversely, opponents articulated apprehensions over the alignment of such jurisdiction with the conventional court role, its non-binding character, and the possibility of intruding into the internal affairs of states. The main arguments of both sides are presented in Table 2.

Table 2. Arguments for and against the advisory jurisdiction of the PCIJ

In favour of	Against
Promotion of the effective functioning of the League of Nations	Incompatibility with the traditional judicial function
Providing valuable legal advice	Non-binding nature of advisory opinions
Assistance in decision-making to political bodies	Undermining confidence in the Court
Facilitating the peaceful resolution of disputes	Possible intrusion into the domestic affairs of states
Development of international law	Lack of a clear precedent in law
Strengthening the rule of law	Risk of being used as a loophole for enforcement jurisdiction

Source: created by the author based on O. Spiermann (2005), M. Fitzmaurice & C.J. Tams (2013), K. Leeuwen & M. Rasmussen (2021)

The history of the origin of advisory competence is rather unclear, as this practice has not yet been applied in international bodies. A specific prototype of an opinion exists within the national court systems of numerous countries. In France, for example, there was a body called the Conseil d'Etat, which, being an executive body, also performed judicial functions. However, in accordance with the Law of France "On Tribunal of Conflicts"[1], it was finally transformed into the Court, which continued to exercise judicial functions while maintaining its advisory role. In the United Kingdom, the Judicial Committee of the Privy Council, in accordance with the provisions of Section 4 of the Judicial Committee Act 1833[2], was empowered to provide the monarch with opinions on legal matters. The monarch, in turn, could entrust this Judicial Committee with the consideration of any other matters of his or her choice; and the Committee was then to consider them and report to the monarch in the prescribed manner. It is worth mentioning Article 15 of the Universal Postal Convention of 9 October 1874[3], which imposed on the International Bureau of the Universal Postal Union the obligation to provide opinions on disputed issues at the request of the parties concerned. In addition, the Paris Convention 1919[4] empowered the International Commission for Aeronautical Navigation, in accordance with Article 34, to give opinions on matters those states could submit to it.

[1] Law of France "On Tribunal of Conflicts". (1872, May). Retrieved from https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000521091.
[2] Judicial Committee Act. (1833). Retrieved from https://www.legislation.gov.uk/ukpga/Will4/3-4/41/section/4.
[3] General Postal Union. (1874, October). Retrieved from https://avalon.law.yale.edu/19th_century/usmu010.asp.
[4] Paris Convention. (1919, October). Retrieved from http://library.arcticportal.org/1580/1/1919_Paris_conevention.pdf.

Although there are similarities between the mechanisms of advisory opinions in national legal systems and certain international organisations, it is challenging to assert that these mechanisms significantly influenced the development of the jurisdiction of the PCIJ (Sthoeger, 2023). As noted by M. Fitzmaurice & C.J. Tams (2013), the diverse experience of national legal systems was not decisive and did not have a significant impact on this process. Moreover, there is no evidence that this experience was systematically analysed during the drafting of the Statute. Considering that the function has been a contentious instrument in the Court's operations, the majority of justices have abstained from exercising this extraordinary authority.

The Council approved the initial request for an opinion on 12 May 1922. The issue was to the legality of the designated representative of Dutch workers participating in the third session of the International Labour Conference, as stipulated by Article 389(3) of the Versailles Treaty[1]. The Court responded affirmatively, asserting that the stipulations of Article 389(3) of the Treaty represent a highly desirable yet challenging objective. The Dutch government has exerted all possible efforts to secure an agreement that optimally guarantees worker representation in the nation. The government, having established an accord with all the most representative industrial associations, appointed a workers' delegate in collaboration with those associations, which encompassed the majority of the nation's workforce.

The Council sent the Court's ruling to the Director of the International Labour Office, who then elaborated on its content in a report to the fourth session of the International Labour Conference, emphasising practical elements and recommendations that could assist States. Despite the practical value of opinions, there are cases when the Court cannot provide them. In the case of Eastern Carelia[2], the Court determined that there are certain categories of matters on which it should not give opinions, even if the Council requests such an opinion. In 1923, upon receiving a request from the Council for an opinion on the interpretation of certain provisions of a peace treaty between Finland and Russia, the Court concluded that it could not issue an opinion, as Russia had neither acceded to the Court's Statute nor accepted its jurisdiction, thereby requiring the consent of both parties for such an opinion to be provided. States cannot be compelled to resolve international disputes through mediation, arbitration, or other peaceful means without their consent - a key principle of state sovereignty under international law. This category includes theoretical inquiries that are abstract and lack practical application (though they may influence law and policy), requests to determine future legislation, questions that undermine the voluntary nature of international judicial proceedings by attempting to bypass jurisdictional consent, and matters concerning abstract Covenant[3] interpretation or states' domestic authority (Aljaghoub, 2005).

Thus, the jurisdiction of the PCIJ was characterised by considerable flexibility, allowing states to determine the degree of its binding nature. This confirms the observation of M.O. Hudson (1943) emphasised the importance of the optional clause in expanding the Court's competence by allowing states to voluntarily recognize its jurisdiction in certain categories of disputes. At the same time, the study showed that even in the absence of compulsory jurisdiction, the PCIJ was actively used by states to resolve disputes, which demonstrates its authority and trust in this judicial body. This observation complements the findings of M. Aljaghoub (2005) and M.O. Hudson (1923), who emphasise the importance of voluntary jurisdiction in the activities of the PCIJ and its impact on the development of law, demonstrating that states were willing to use the PCIJ to resolve disputes even without prior recognition of its jurisdiction. Thus, it can be argued that the flexibility of the jurisdiction of the PCIJ contributed to its effectiveness and accessibility for states wishing to resolve their disputes peacefully, allowing them to choose the most appropriate way of interaction with the Court and thus contributing to the strengthening of the legal order.

The jurisdiction of the PCIJ has emerged as a unique instrument that enhances the operational efficacy of the League of Nations by offering significant legal counsel on many matters. This is confirmed by A. Aust (2010), who pointed out the importance of advisory jurisdiction for the League of Nations as a political body that needed legal expertise for decision-making. The research indicated that the opinions of the PCIJ, albeit their non-binding character, possessed considerable authority and impact on the development of international practice. This aligns with H. Lauterpacht's (1993) research, which highlighted the significance of international courts in the evolution of law, particularly via their advisory

[1] Advisory Opinion of the Permanent Court of International Justice in Case "Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference". (1922, May). Retrieved from https://jusmundi.com/en/document/other/fr-designation-du-delegue-ouvrier-neerlandais-a-la-troisieme-session-de-la-conference-internationale-du-travail-requete-pour-avis-consultatif-monday-22nd-may-1922.

[2] Advisory Opinion of the Permanent Court of International Justice in Case "Status of the Eastern Carelia". (1923, July). Retrieved from http://www.worldcourts.com/ППІМП/eng/decisions/1923.07.23_eastern_carelia.htm.

[3] Covenant of the League of Nations. (1919, June). Retrieved from https://www.ungeneva.org/en/covenant-lon.

functions. The decisions of the PCIJ have significantly influenced the development of legal norms and have bolstered the rule of law globally. This fact demonstrates that the authority and influence of an international court is not always determined solely by the binding nature of its decisions, but may be based on the quality and validity of the legal arguments contained in its opinions.

An important conclusion of the study is that the development of the jurisdiction of the PCIJ was autonomous from other legal systems. This contradicts some previous studies and underlines the uniqueness and originality of this mechanism within the framework of the PCIJ. As noted by M. Fitzmaurice & C.J. Tams (2013), the BCP has independently developed this instrument, adapting it to the needs of the community. This shows the PCIJ's inventive capacity to establish new methods for resolving international disputes, significantly contributing to the evolution of law and showcasing its leadership in advancing international justice. This study's analysis indicates that the jurisdiction of the PCIJ, especially regarding opinions, has been a topic of vigorous dispute and contention. This was also pointed out by the Court's contemporaries, for example, A.H. Feller & E.W. Allen (1933), who analysed the limits of the jurisdiction of the PCIE and its relationship with the principle of state sovereignty. Of particular concern was the possibility of using advisory jurisdiction to circumvent the principle of voluntary participation in international judicial proceedings, turning it into an instrument of compulsory jurisdiction.

The European Court of Human Rights (ECHR) uses the mechanism of advisory jurisdiction to develop law in European countries. Although the ECHR judgments are binding on the Council of Europe member states, like the PCIJ, the court also performs an advisory function, providing opinions at the request of the Committee of Ministers of the Council of Europe. As noted by J. Dute & T. Goffin (2024), the ECtHR actively implements the legal standards developed since the time of the PCIJ and enshrines them in its judgments, influencing the legal systems of the member states.

The International Criminal Court (ICC) operates under the Rome Statute, which defines its mandate to try the most serious international crimes. Although the ICC primarily administers criminal justice, it can also have an advisory role, for example, in cooperation with the UN or other international organisations. N. Palmer & T. Hamilton (2022) emphasised that the PCIJ contributed to the development of the basic principles of justice that are used in the ICC's work today. Despite the fact that the ICC's advisory opinions are limited to the field of criminal law, its practice, like the decisions of the PCIJ, is based on the same ideas of legal responsibility and justice that were laid down in the days of the PCIJ.

The Court of Justice of the European Union, according to the Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union[1], has an advisory function, providing preliminary opinions on the interpretation of EU law at the request of national courts. These opinions are not obligatory for national courts; yet, they substantially influence the evolution of legal norms inside the EU. The importance of this role is reflected in the study by X. Tracol (2023), who argued that the EU Court of Justice's case law on preliminary opinions is based on the legal tradition established by the PCIJ. This allows EU Member States to effectively interact at the legal level and unify legislative approaches. Thus, the advisory functions of the PCIJ have become an integral part of modern international judicial practices, in particular within the framework of the EU's legal integration. The advisory opinions of the Venice Commission, as well as the decisions of the PCIJ, have a significant impact on the legal order, despite the fact that they are not binding. The Venice Commission provides expert opinions on constitutional law, democracy and human rights, which helps states to reform their legislation. S. Granata-Menghini (2022) noted that the role of the Venice Commission is key to ensuring constitutional justice, especially in the context of the rise of populism. As emphasised by F. Duranti (2024), the Commission's opinions influence the formation of governmental structures, which contributes to the strengthening of legal standards in the Council of Europe member states.

This confirms the importance of consultative mechanisms in law, which allow states to receive authoritative legal clarifications and promote the peaceful settlement of disputes, even if they are not legally binding. The study also found that the PCIJ has actively used its advisory jurisdiction, issuing numerous advisory opinions on a variety of issues. The PCIJ's experience can benefit contemporary international courts that provide advisory opinions by elucidating best practices and methodologies for this function, while underscoring the significance of advisory jurisdiction in fortifying the international legal framework and fostering the peaceful resolution of conflicts.

Conclusions

Given the evolution of law and international relations, the Permanent Court has played a significant role in conflict resolution. The Court has delivered 32 judgements and issued 27 advisory opinions. The authority of the Permanent Court to adjudicate

[1] Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. (2016, June). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016ME%2FTXT.

disputes is explicitly delineated in its Statute. Although the jurisdiction, according to the Statute, was optional, there were cases that gave the Court "compulsory jurisdiction". This "compulsory jurisdiction" was granted by states in a declaration. In this case, the states were obliged to refer the case to the Court. The Permanent Court was also granted exclusive competence to facilitate the work of the Council and Assembly of the League. In the formulation of the Statute, the Advisory Committee of Jurists included in Article 36 the provision for the Court to issue opinions on matters of international significance or disputes submitted by the Council or the Assembly. This provision, however, gave rise to an active debate on the relevance of powers to the Court's overall tasks and fears that such powers could become a form of compulsory jurisdiction. As a result of these discussions, and in view of the "desire not to limit the Court in a field which had no clear international past and was uncertain as to its international future", the Assembly decided not to include advisory powers in the final Statute. In 1929, amendments to the Statute of the PCIJ were drafted, which entered into force in 1936, enshrining the PCIJ's practice of advisory opinions and adding certain articles. Thus, the new version of the Statute, in accordance with Title IV, Articles 66-68 of the Statute of the Court, set out the procedure for filing an application, hearing a case and issuing an advisory opinion.

The Advisory Opinion was not a judgment in cases under Articles 59 and 60 of the Statute of the Court. It should also be added that there is no evidence that the committee of lawyers who drafted the Statute and certain provisions of the Court's competence relied on the experience of advisory jurisdiction of national systems or other international bodies. However, we can conclude that the main difference between the advisory opinions of the PCIJ and other international bodies is their legal status and scope. In addition, it is worth emphasizing that the Court could only issue such opinions to states that are in dispute and accept the Court's jurisdiction. When a state rejects the Court's jurisdiction, it cannot provide an advisory opinion without infringing upon that state's sovereign right to decide whether to submit disputes for judicial review.

Examining the correlation between the jurisdiction of the PCIJ and the operations of contemporary organisations, such as the International Labor Organisation and the International Maritime Organisation, is promising. This will elucidate the mechanisms of interaction between the PCIJ and other international organisations, together with their influence on the jurisdiction and operations of the PCIJ, and the evolution of law overall.

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Conflict of Interest

The author of this study declares no conflict of interest.

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Юрисдикція та консультативні функції Постійної палати міжнародного правосуддя: історичний розвиток і вплив

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■ **Анотація.** У статті зосереджено увагу на з'ясуванні основних питань, що стосуються формування юрисдикції Постійної палати міжнародного правосуддя, її джерелах, обмеженнях, державному визнанні, виключних повноваженнях щодо надання консультативних висновків, правовій природі й меті діяльності. У дослідженні використано комплексний підхід, що передбачав аналіз історичних документів, статутів і регламентів Постійної палати. Виокремлено визначальні елементи юрисдикції цього органу та його участі у формуванні міжнародно-правової бази. Здійснено порівняльний аналіз механізмів консультативних висновків у різних правових системах, що надало можливість визначити особливості й унікальність підходу Постійної палати. З'ясовано, що повноваження Постійної палати вирізнялися гнучкістю, що давало змогу державам самостійно встановлювати рівень їх обов'язковості. Її консультативна юрисдикція була інноваційним механізмом, що сприяв ефективному функціонуванню Ліги Націй та прийняттю важливих правових рішень. Хоча консультативні висновки не були обов'язковими до виконання, вони мали авторитет і важливе значення для розвитку міжнародного співробітництва. Консультативну юрисдикцію було створено незалежно від інших правових систем, що засвідчувало її унікальність. Констатовано, що Постійна палата зробила вагомий внесок в еволюцію юриспруденції та методів мирного врегулювання конфліктів. Цей досвід і практика заклали фундамент сучасної системи правосуддя та основоположних принципів права, сприяючи співробітництву і взаєморозумінню в міжнародних відносинах. Практичне значення цього дослідження полягає в окресленні ролі Постійної палати в розвитку міжнародного правосуддя та механізмів мирного врегулювання спорів, що може сприяти вдосконаленню сучасних правових систем і міжнародних відносин

■ **Ключові слова:** компетенція судових органів; глобальні відносини; консультативна юрисдикція; вирішення міжнародних спорів; консультативний висновок