

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

AFFAIRE DU DÉTROIT
DE CORFOU

ORDONNANCE DU 17 DÉCEMBRE 1948

1948

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

THE CORFU
CHANNEL CASE

ORDER OF DECEMBER 17th, 1948

La présente ordonnance doit être citée comme suit :
« *Affaire du détroit de Corfou, Ordonnance du 17 décembre 1948 :*
C. I. J. Recueil 1948, p. 124. »

This Order should be cited as follows :
“*Corfu Channel case, Order of December 17th, 1948 :*
I.C.J. Reports 1948, p. 124.”

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INTERNATIONAL COURT OF JUSTICE

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No. 1.

Order made on December 17th, 1948.

THE CORFU
CHANNEL CASE

The International Court of Justice,

Having regard to Articles 48 and 50 of the Statute of the Court
and Article 57 of the Rules,And to the fact that certain points have been contested between
the Parties which make it necessary to obtain an expert opinion,

After deliberation,

*Decides that*I. An expert opinion shall be obtained upon the following
points :

(1) You are requested to examine the situation in the North Corfu Strait immediately before October 22nd, 1946, from the point of view of (a) the position of the swept channel ; (b) the effectiveness of the mine-clearance previously carried out ; and (c) the risk of encountering floating mines in this Channel owing to the proximity of the old minefields, and to study the German documents in order to obtain information from them concerning the types of mines laid in those minefields.

(2) You are requested to examine the information and documents available concerning the navigation of the *Mauritius*, the *Saumarez* and the *Volage*, in order to ascertain what conclusions, if any, may be drawn concerning the identity of the type of mines which struck the two last-named vessels

with the type of mines discovered on November 13th, 1946, and to state how far, in your opinion, these conclusions can be regarded as valid.

(3) You are requested to examine the information and documents available relating to the damage suffered by the *Saumarez* and the *Volage*, and to the fragments of a mine found in the *Volage*, with a view to ascertaining what conclusions, if any, may be drawn regarding the types of mine which struck these vessels, and how far these conclusions can, in your opinion, be regarded as valid.

(4) You are requested to examine the questions whether it is possible to draw (a) from the position of the mines swept on November 13th, 1946; (b) from the fact that a complete mine-clearance of the Albanian waters in this area had not yet been carried out at that time; and (c) from the passage of the *Mauritius* on the 22nd October, 1946, without striking any mine, any conclusions, and, if so, what conclusions, regarding the existence of a methodically laid minefield and the object for which, in the light of the disposition of the mines, they appear to have been laid.

(5) From the state of the mines swept on November 13th, 1946, can you draw any conclusions, and, if so, what conclusions, as to the date on which they were moored, and, in particular, on the question whether they were moored before or after the 22nd October, 1946?

(6) Having regard to the replies given, by agreement between the Parties, to the questions concerning the position of the sun at Sibenik on October 17th and 18th, 1946, and on the basis of the documents in the case, does the examination of the factual circumstances concerning (a) the date, (b) the time of day, (c) the lie of the land, (d) the conditions of visibility, (e) the position of the objects (ships, mines, horns, rails), (f) their form, colour and dimensions, lead you to the conclusion that, in the circumstances in which the witness Kovacic was situated, it was possible for him to see the loading and the presence of GY mines on board two ships of the M-class in Panikovac Cove and the rails on the ships?

(7) You are requested to state your opinion as to

(a) the number of GY mines which a minelayer of the M-class could load;

(b) the time required by two ships of this class, each possessing a derrick and a steam winch, and lying approximately in the positions indicated by the witness Kovacic, to take their complete load of mines; and

(c) whether GY mines are normally fitted with horns when they are loaded on ships, or whether, on the contrary, they normally have to be fitted with the horns at the time when they are moored.

(8) On the assumption that the mines discovered on November 13th, 1946, were laid at some date within the few preceding months, whoever may have laid them, you are requested to examine the information available regarding (a) the number and the nature of the mines, (b) the means for laying them, and (c) the time required to do so, having regard to the different states of the sea, the conditions of the locality, and the different weather conditions, and to ascertain whether it is possible in that way to draw any conclusions, and, if so, what conclusions, in regard to (i) the means employed for laying the minefield discovered on November 13th, 1946, and to (ii) the possibility of mooring those mines with those means without the Albanian authorities being aware of it, having regard to the extent of the measures of vigilance existing in the Saranda region.

II. The duty of giving the expert opinion shall be entrusted to a Committee of Experts composed of Commodore J. Bull, of the Royal Norwegian Navy, Commodore S. A. Forshell, of the Royal Swedish Navy, and Lieutenant-Commander S. J. W. Elfferich, of the Royal Netherlands Navy.

The Experts shall elect a chairman from amongst their number

III. After undertaking to serve, each Expert shall make in Court the following declaration :

"I solemnly declare upon my honour and conscience that I will perform my duties in all sincerity and will abstain from divulging or using, outside the Court, any secrets of a military or technical nature which may come to my knowledge in the course of the performance of my task."

IV. The Registrar shall be responsible for the secretarial arrangements of the Committee of Experts. He may appoint a high official of the Registry to perform these duties.

V. The Registrar shall place the pleadings, the documents filed and the verbatim record of public sittings at the disposal of the Experts.

VI. The Experts shall bear in mind that their task is not to prepare a scientific or technical statement of the problems involved, but to give to the Court a precise and concrete opinion upon the points submitted to them.

VII. The Experts shall not limit themselves to stating their findings ; they will also, as far as possible, give the reasons for these

findings in order to make their true significance apparent to the Court. If need be, they will mention any doubts or differences of opinion amongst them.

VIII. The Experts shall file their report in the Registry, at the latest, on the 10th of January, 1949. The report shall be communicated by the Registry to the Agents of the Parties.

IX. The Court reserves the right to put further questions to the Experts if it thinks fit.

Done in French and English, the English text being authoritative, at the Peace Palace, The Hague, this seventeenth day of December, nineteen hundred and forty-eight, in three copies, one of which shall be placed in the archives of the Court, and the others handed to the Agents of the Government of the People's Republic of Albania and of the Government of the United Kingdom of Great Britain and Northern Ireland respectively.

(Signed) J. G. GUERRERO,
President.

(Signed) E. HAMBRO,
Registrar.