

1998/297. Request for an advisory opinion of the International Court of Justice

At its 49th plenary meeting, on 5 August 1998, the Economic and Social Council, having considered the note by the Secretary-General on the privileges and immunities of the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers,⁹⁷ considering that a difference had arisen between the United Nations and the Government of Malaysia, within the meaning of section 30 of the Convention on the Privileges and Immunities of the United Nations,⁹⁸ with respect to the immunity from legal process of Dato' Param Cumaraswamy, the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers, and recalling General Assembly resolution 89 (I) of 11 December 1946:

(a) Requested on a priority basis, pursuant to Article 96, paragraph 2, of the Charter of the United Nations and in accordance with General Assembly resolution 89 (I), an advisory opinion of the International Court of Justice on the legal question of the applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations in the case of Dato' Param Cumaraswamy as Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers, taking into account the circumstances set out in paragraphs 1 to 15 of the note by the Secretary-General,⁹⁹ and on the legal obligations of Malaysia in that case;

(b) Called upon the Government of Malaysia to ensure that all judgements and proceedings in that matter in the Malaysian courts were stayed pending receipt of the advisory opinion of the International Court of Justice, which should be accepted as decisive by the parties.

⁹⁵ ST/SGB/PPBME Rules/1 (1987), as amended by General Assembly resolution 42/215.

⁹⁶ E/1998/81.

⁹⁷ E/1998/94 and Add.1.

⁹⁸ General Assembly resolution 22 A (I).

⁹⁹ E/1998/94.