



# INTERNATIONAL COURT OF JUSTICE

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**Communiqué**  
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**Difference Relating to Immunity from Legal Process  
of a Special Rapporteur of the Commission on Human Rights**

**Request for an advisory opinion by ECOSOC**

**Conclusion of the hearings**

THE HAGUE, 10 December 1998. The public hearings in the case concerning the Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights (request for an advisory opinion) at the International Court of Justice (ICJ) were concluded today, enabling the Court to start its deliberations.

During these hearings, which started on 7 December 1998, the Secretary-General of the United Nations represented by the Legal Counsel, Mr. Hans Corell, Costa Rica, Italy and Malaysia made oral submissions.

The Court's Advisory Opinion will be delivered in the spring of 1999. It will be read during a public sitting on a date which will be announced in a subsequent press release.

**Background information**

The request for an advisory opinion was made last August by the Economic and Social Council (ECOSOC), one of the six principal organs of the United Nations. The case relates to Dato' Param Cumaraswamy, a Malaysian jurist who in 1994 was appointed Special Rapporteur on the independence of judges and lawyers by the Commission on Human Rights, an organ of ECOSOC.

Mr. Cumaraswamy currently faces several lawsuits filed in Malaysian courts by different plaintiffs for damages in a total amount of 112 million US dollars. The plaintiffs assert that he used defamatory language in an interview he gave in 1995 to International Commercial Litigation magazine.

However, according to the United Nations Secretary-General, Mr. Cumaraswamy spoke in his official capacity of Special Rapporteur and was thus immune from legal process by virtue of the Convention on the Privileges and Immunities of the United Nations.

Moves by the United Nations Secretary-General to ensure respect for this immunity did not lead, in his view, to any appropriate intervention by the Malaysian Government in the Malaysian courts.

Internal Practice of the Court with respect to deliberations

In accordance with the Internal Judicial Practice of the Court with respect to deliberations, the judges will soon hold a preliminary discussion at which the President will outline the issues which require discussion and a decision by the Court.

After initial consideration, each judge will prepare a written Note setting out his views on the case. This Note will be distributed to the other judges. A full deliberation will be held afterwards at the end of which, on the basis of the views expressed, a drafting committee will be chosen by secret ballot. That committee will consist of two judges holding the majority view and the President if he shares that view.

The draft text will go through two readings during which the amendments submitted in writing by the judges will be considered. Meanwhile, judges who wish to do so may prepare a separate or dissenting opinion.

The final vote will be taken after adoption of the final text in the second reading.

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NOTE FOR THE PRESS

The full transcripts of the hearings of 7-10 December 1998 can be found on the Court's website at the following address: <http://www.icj-cij.org>

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