
Article 96

Contents

	<i>Paragraphs</i>
Text of Article 96	
Introductory note	1
I. General survey	2–9
II. Analytical summary of practice	10–55
A. Authorization to request advisory opinions	10
1. Organs to be authorized to request advisory opinions	11–16
(a) Secretary-General’s call for authorization to request advisory opinions	11–13
(b) Review of the procedure provided for under article 11 of the Statute of the Administrative Tribunal of the United Nations	14–16
**2. The scope of questions on which advisory opinions may be sought under the terms of Article 96 (2)	
B. Requests for advisory opinions	17–51
1. Scope of power of the organs to request advisory opinions of the Court	17–19
2. Purpose of the requests	20–21
3. Effect of disputes between parties	22
4. Positions of the States concerned	23
5. Obligation to submit legal questions to the Court	24
6. Formulation of questions submitted to the Court	25–31
(a) Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations	25–28
(b) Legality of the use by a State of nuclear weapons in armed conflict	29
(c) Legality of the threat or use of nuclear weapons	30–31
7. Forwarding of requests to the Court	32–34
(a) Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations	32
(b) Legality of the use by a State of nuclear weapons in armed conflict	33
(c) Legality of the threat or use of nuclear weapons	34
8. Written and oral statements	35–38
(a) Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations	35–36
(b) Legality of the use by a State of nuclear weapons in armed conflict	37
(c) Legality of the threat or use of nuclear weapons	38

9.	Consideration of the nature and type of questions submitted to the Court.	39–48
	(a) The political or legal nature of the question.	39–40
	(b) Important points of law	41–46
	(c) Interpretation of the Charter of the United Nations.	47
	(d) Interpretation of treaties.	48
10.	Effects of requests for advisory opinions	49
**11.	Prior references to the binding effects of advisory opinions	
12.	Effect given to the advisory opinions of the Court	50–51
C.	Miscellaneous	52–55
	1. Proposals aimed at requests for advisory opinions from the International Court of Justice.	52–53
	2. References in constituent instruments of international organizations to requests for advisory opinions.	54–55

Text of Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.
2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

Introductory note

1. In general, the structure of the present study follows that of the corresponding study of this article in *Repertory, Supplements Nos. 5, 6 and 7*. However, the general survey has been made concise to avoid repetitions. Moreover, the subheadings in the analytical summary of practice have been rearranged to logically reflect the proceedings, and some subheadings have been modified where necessary.

I. General survey

2. During the period under review, no additional organ of the United Nations or specialized agency was authorized by the General Assembly to request advisory opinions of the International Court of Justice. However, two proposals concerning authorization to request advisory opinions were considered by the General Assembly.

3. The Secretary-General of the United Nations repeatedly called upon the General Assembly to authorize him to request advisory opinions of the Court.¹ The Assembly considered his proposal but did not make any recommendation. Instead, it decided to keep the question under review.²

4. The General Assembly also considered the question of review of the procedure provided for under article 11 of the Statute of the Administrative Tribunal of the United Nations. However, its deliberations were not concluded as at 31 December 1994.³

5. During the period under review, three advisory opinions were requested of the International Court of Justice. As at 31 December 1994, one advisory opinion had been delivered; the other two requests were still *pendente litis*.

6. On 24 May 1989, the Economic and Social Council decided⁴ to request an advisory opinion from the

International Court of Justice on a difference that had arisen between the United Nations and the Government of Romania concerning the applicability of the 1946 Convention on the Privileges and Immunities of the United Nations in the case of Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

7. The Court delivered its advisory opinion on 15 December 1989.⁵

8. On 14 May 1993 the World Health Assembly decided⁶ to request an advisory opinion of the Court on the legality of the use by a State of nuclear weapons in armed conflict. As at 31 December 1994, the Court had not yet delivered its advisory opinion.⁷

9. On 14 December 1994, the General Assembly decided to request an advisory opinion on the legality of the threat or use of nuclear weapons.⁸ As at 31 December 1994, the Court had not delivered its advisory opinion, nor had it fixed a time limit for States and organizations to present their comments.⁹

⁵ *I.C.J. Reports 1989*, pp. 177-221. See also paras. 17-19 below.

⁶ Resolution WHA 46.40.

⁷ See also paras. 30, 34, 35 and 39.

⁸ G A resolution 49/75 K.

⁹ On 1 February 1995, the Court fixed 20 June 1995 as a time limit for States and organizations to present their statements, and 20 September 1995 for States and organizations to submit their comments on other statements. See *I.C.J. Reports 1995*, p. 4. See also paras. 31, 32, 36, and 40.

¹ [A/45/1](#), p. 7; [A/46/1](#), p. 4; [A/47/277-S/24111](#), p. 12.

² G A resolution 47/120 B, sect. III, para. 6. See also paras. 11-13 below.

³ [A/49/258](#); [A/C.6/49/SR.38](#), pp. 2-7. See also paras. 14-16 below.

⁴ Economic and Social Council resolution 1989/75.

II. Analytical summary of practice

A. Authorization to request advisory opinions

10. During the period under review no additional organ of the United Nations or specialized agency was authorized by the General Assembly to request advisory opinions of the Court.

1. Organs to be authorized to request advisory opinions

(a) *Secretary-General's call for authorization to request advisory opinions*

11. The Secretary-General, in his reports on the work of the Organization, submitted to the General Assembly at its forty-fifth and forty-sixth sessions, called upon the Assembly to authorize the Secretary-General to request advisory opinions of the Court under Article 96 of the Charter.¹⁰ This request was repeated in the report to the General Assembly and the Security Council entitled "An Agenda for Peace".¹¹

12. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization considered this proposal in its 1992¹² and 1993¹³ sessions, but did not make any recommendation.

13. On 20 September 1993, the General Assembly decided to keep the recommendation of the Secretary-General on the use of the advisory competence of the Court under examination.¹⁴

(b) *Review of the procedure provided for under article 11 of the Statute of the Administrative Tribunal of the United Nations*

14. Upon the initiative of a number of Member States,¹⁵ at its forty-eighth session, the General Assembly decided to include in its agenda an item entitled "Review of the procedure provided for under article 11 of the Statute of the Administrative Tribunal of the United Nations". At the same session, on the

recommendation of the Sixth Committee,¹⁶ the Assembly requested the Secretary-General to carry out a review of the procedure provided for under article 11 of the Statute, and to report to the Assembly at its forty-ninth session.¹⁷

15. Paragraph 4 of article 11 provided for the establishment of a committee on applications for review of Administrative Tribunal judgements, which was authorized by the General Assembly, under Article 96, paragraph 2, of the Charter of the United Nations, to request advisory opinions of the International Court of Justice.

16. The General Assembly considered this item in its forty-ninth session,¹⁸ but did not make any recommendation as at 31 December 1994.

**2. The scope of questions on which advisory opinions may be sought under the terms of Article 96 (2)

B. Requests for advisory opinions

1. Scope of power of the organs to request advisory opinions of the Court

17. For the first time since the establishment of the Court, the Economic and Social Council, in 1989, requested an advisory opinion of the Court in accordance with Article 96, paragraph 2, of the Charter of the United Nations, in the case concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*. The General Assembly, by its resolution 89 (I) of 11 December 1946, had previously authorized the Council to request advisory opinions of the Court.¹⁹

18. The events in question focused on the entitlement of Mr. Dimitru Mazilu as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to privileges and immunities under the Convention in the State of his nationality.

¹⁰ A/45/1, p. 7; A/46/1, p. 4.

¹¹ A/47/277-S/24111, p. 11.

¹² A/47/33, p. 8.

¹³ A/48/33, p. 6.

¹⁴ G A resolution 47/120 B, sect. III, para. 6.

¹⁵ See A/48/232.

¹⁶ A/48/619, para. 8.

¹⁷ General Assembly decision 48/415. Report of the Secretary-General dated 17 October 1994 (A/C.6/49/2).

¹⁸ A/49/258; A/C.6/49/SR.38, pp. 2-7.

¹⁹ Resolutions adopted by the General Assembly from 23 October to 15 December 1946, New York, 1947, p. 176.

19. Having considered the question before it, the Court observed that the assignment of Mr. Mazilu as a special rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities “was pertinent to a function and programme of the Council”,²⁰ the reason being that the Sub-Commission was a subsidiary organ of the Human Rights Commission, which in turn was a subsidiary organ of the Council. Therefore, the Court concluded that: “the request before the Court fulfils the conditions of Article 96, paragraph 2, of the Charter of the United Nations”.²¹

2. Purpose of the requests

20. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Court observed that the nature and purpose of the proceedings were a request for an advice on the applicability of a part of the Convention.²²

21. In this respect, the Court also confirmed its earlier position²³ that “the jurisdiction of the Court under Article 96 of the Charter and article 65 of the Statute, to give advisory opinions on legal questions, enables the United Nations entities to seek guidance from the Court in order to conduct their activities in accordance with law”.²⁴

3. Effects of disputes between parties

22. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Court clarified the point that the reason for the request was to provide an “advice on the applicability of a part of the General Convention, and not the bringing of a dispute before the Court for determination”.²⁵

4. Positions of the States concerned

23. In view of the absence of consent of the State of nationality of the Special Rapporteur in the request for

an advisory opinion²⁶ on the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Court considered the point which it had addressed in an earlier case,²⁷ namely, “to give a reply would have the effect of circumventing the principle that a State is not obliged to allow its dispute to be submitted to judicial settlement without its consent”. In this case, it found that giving an advisory opinion would not have such effect.²⁸ Consequently, it found no compelling reason to refuse to give an advisory opinion.²⁹

5. Obligation to submit legal questions to the Court

24. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Court observed that section 30 of the Convention was drafted so as to include the settlement of differences between the United Nations and a State party. In the opinion of the Court, if such a difference arose “a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties”.³⁰

6. Formulation of questions submitted to the Court

(a) *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*

25. In the above-mentioned advisory opinion, the Sub-Commission of the Human Rights Commission initiated the request for an advisory opinion of the Court. On 1 September 1988, it adopted resolution 1988/37,³¹ in which it requested the Commission on Human Rights to urge the Economic and Social Commission to seek the advisory opinion of the International Court of Justice, in the event that the Government concerned did not concur in the applicability of the provisions of the Convention in the

²⁰ *I.C.J. Reports 1989*, p. 187, para. 28.

²¹ *Ibid.*

²² *Ibid.*, para. 35.

²³ Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Advisory Opinion, *I.C.J. Reports 1950*, p. 71.

²⁴ *I.C.J. Reports 1989*, p. 188, para. 31.

²⁵ *Ibid.*, p. 190, para. 35.

²⁶ *Ibid.*, p. 185, para. 24.

²⁷ Western Sahara, Advisory Opinion, *I.C.J. Reports 1975*, p. 25, paras. 32-33.

²⁸ *I.C.J. Reports 1989*, p. 191, para. 38.

²⁹ *Ibid.*, para. 39.

³⁰ *Ibid.*, p. 189, para. 32.

³¹ The resolution was adopted by 16 votes to 4, with 3 abstentions.

case of Mr. Mazilu. The relevant paragraph of the said resolution reads as follows:

“3. Requests the Commission on Human Rights, [...], to urge the Economic and Social Council to request, in accordance with General Assembly resolution 89 (I) of 11 December 1946, from the International Court of Justice an advisory opinion on the applicability of the relevant provisions of the Convention on the Privileges and Immunities of the United Nations to the present case and within the scope of the present resolution.”³²

26. The Commission on Human Rights adopted its resolution 1989/37, on 6 March 1989, recommending that the Council request an advisory opinion from the Court.³³ Paragraph 2 of the proposed draft resolution to the Council read as follows:

“2. Requests, pursuant to Article 96, paragraph 2, of the Charter of the United Nations and in accordance with General Assembly resolution 89 (I) of 11 December 1946, an advisory opinion from 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 of 13 February 1946 in the case of Mr. Dimitru Mazilu as Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.”³⁴

27. The Council, on 24 May 1989, adopted its resolution 1989/75,³⁵ in which it requested an advisory opinion from the Court on the legal question of the applicability of article VI, section 22, of the Convention in the case of Mr. Mazilu as the Special Rapporteur of the Sub-Commission. The question put before the Court read as follows:

“2. Requests, 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) of 11 December 1946, an advisory opinion from 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 Mr. Dimitru Mazilu as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.”³⁶

28. The phrase “on a priority basis”, which had not been included in the draft resolution of the Commission on Human Rights, was inserted by the Council.³⁷

(b) Legality of the use by a State of nuclear weapons in armed conflict

29. In the above advisory opinion, “Committee B”³⁸ of the World Health Assembly formulated the question to be put to the Court, which was approved by the World Health Assembly.³⁹ It read as follows:

“In view of health and environmental effects, would the use of nuclear weapons by a State in war or other armed conflict be a breach of its obligations under international law including the WHO constitution?”⁴⁰

(c) Legality of the threat or use of nuclear weapons

30. In the above-mentioned advisory opinion, the following question was formulated in a draft resolution presented to the First Committee of the General Assembly, under the agenda item “General and complete disarmament”, by the States members of the Movement of Non-Aligned Countries:

“Is the threat or use of nuclear weapons in any circumstance permitted under international law?”⁴¹

31. After consideration and adoption of the draft resolution by the First Committee, the General Assembly adopted the resolution by a vote on 15 December 1994.⁴²

³² *I.C.J. Reports 1989*, p. 184.

³³ The resolution was adopted by 26 votes to 5, with 12 abstentions. [E/1989/20](#), p. 105.

³⁴ [E/1989/20](#), p. 4.

³⁵ The resolution was adopted by 24 votes to 8, with 19 abstentions.

³⁶ [E/1989/20](#), p. 4.

³⁷ The amendment was adopted by 38 votes to 7, with 8 abstentions, [E/1989/SR.16](#), p. 62.

³⁸ Fourth Report of Committee B, World Health Assembly, [A/46/53](#).

³⁹ Resolution WHA 46/40 adopted by 73 votes to 40, with 10 abstentions, [AHA46/1993/REC/2](#), p. 282.

⁴⁰ *I.C.J. Reports 1993*, p. 468.

⁴¹ [A/C.1/49/L.36](#).

⁴² 78 votes in favour to 43 against, with 38 abstentions, [A/49/PV.90](#), p. 36.

7. Forwarding of requests to the Court

(a) *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*

32. In the above-mentioned advisory opinion, the Secretary-General of the United Nations informed the President of the Court, by a letter dated 13 June 1989, of Economic and Social Council resolution 1989/75, adopted on 24 May 1989, the text of which embodied the question put forward to the Court.⁴³

(b) *Legality of the use by a State of nuclear weapons in armed conflict*

33. In the above-mentioned advisory opinion, the Director General of the World Health Organization informed the President of the Court, by a letter dated 27 August 1993, of resolution WHA 46/40, adopted by the World Health Assembly on 14 May 1993, the text of which embodied the question put forward to the Court.⁴⁴

(c) *Legality of the threat or use of nuclear weapons*

34. In the above-mentioned advisory opinion, the Secretary-General of the United Nations informed the President of the Court, by a letter dated 19 December 1994, of resolution 49/75 K adopted by the General Assembly on 15 December 1994, the text of which embodied the question put forward to the Court.⁴⁵

8. Written and oral statements

(a) *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*

35. In the above-mentioned advisory opinion, four States⁴⁶ submitted written statements to the Court within the time limit fixed by its order of 14 June 1989. Written comments on other statements were also submitted, within the relevant time limit, by one State.⁴⁷ The Secretary-General transmitted to the Court

⁴³ *I.C.J. Reports 1989*, p. 178, para. 1.

⁴⁴ *I.C.J. Reports 1993*, p. 468.

⁴⁵ *I.C.J. Reports 1995*, p. 3.

⁴⁶ Namely, Canada, the Federal Republic of Germany, the Socialist Republic of Romania and the United States of America, *I.C.J. Reports 1989*, p. 179, para. 4.

⁴⁷ Namely: the United States of America, *ibid.*

a dossier of documents, in August 1989, which was likely to shed light upon the question before the Court.⁴⁸

36. In the same case, one State⁴⁹ and the Legal Counsel of the United Nations⁵⁰ made oral statements before the Court.

(b) *Legality of the use by a State of nuclear weapons in armed conflict*

37. In the above-mentioned advisory opinion, as at 20 September 1994, the time limit fixed by the Court, 35 States had submitted written comments.⁵¹ However, as at 31 December 1994, the time limit fixed by the Court for the submission of written comments on the written statements of other States had not yet expired.⁵² Consequently, the Court had not yet embarked upon the consideration of the request for the advisory opinion.

(c) *Legality of the threat of use of nuclear weapons*

38. In the above-mentioned advisory opinion, as at 31 December 1994, the Court had not fixed a time limit for submission of written statements by States and organizations. Therefore, by the end of the period under review, no statement had been submitted to the Court.

9. Consideration of the nature and type of questions submitted to the Court

(a) *The political or legal nature of the question*

39. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*,

⁴⁸ *I.C.J. Reports 1989*, p. 179, para. 5.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, p. 179, para. 8.

⁵¹ Namely: Australia, Azerbaijan, Colombia, Costa Rica, Democratic People's Republic of Korea, Finland, France, Germany, India, Ireland, Islamic Republic of Iran, Italy, Japan, Kazakhstan, Lithuania, Malaysia, Mexico, Nauru, the Netherlands, New Zealand, Norway, Papua New Guinea, Philippines, Republic of Moldova, Russian Federation, Rwanda, Samoa, Saudi Arabia, Solomon Islands, Sri Lanka, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America. *I.C.J. Reports 1996*, vol. I, p. 68, para. 6.

⁵² The President of the Court, by his order of 20 June 1994, had fixed 20 June 1995 as a time limit for submission of written comments on other written statements. *Ibid.*, para. 5.

the Court focused its attention on the applicability of article VI, section 22 of the Convention, which reads as follows:

“Experts (other than officials coming within the scope of article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions.”⁵³

40. As it was *prima facie* a legal question in nature, which was not disputed by the States and organizations that presented written statements or made oral comments, the Court did not address the point of the legal nature of the question.

(b) Important points of law

41. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, since the Convention did not provide a definition of “experts on mission”, the Court first considered the meaning of this expression. Then, it analysed the meaning of the expression “duration of [the] mission”. Subsequently, it examined the question of entitlement to the privileges and immunities by experts on mission under the Convention, in their relations with the State of nationality or State of residence. Moreover, the Court addressed the legal status of rapporteurs in general.

42. As for the meaning of “experts on mission”, the Court observed that the purpose of section 22 was “to enable the United Nations to entrust missions to persons who do not have the status of an official of the Organization, and to guarantee them such privileges and immunities as are necessary for the independent exercise of their functions”.⁵⁴ The Court further observed that: “The experts thus appointed or elected may or may not be remunerated, may or may not have a contract, may be given a task requiring work over a lengthy period or a short time.” In the opinion of the Court, the “essence of the matter” did not lie in the “administrative position” of experts but “in the nature of their mission”.⁵⁵

43. The Court then examined the period of missions, in which the experts were entitled to enjoy the privileges and immunities. In the opinion of the Court, the experts enjoyed functional privileges and immunities “during whole period of such missions”.⁵⁶

44. As regards the question whether experts on missions can invoke the privileges and immunities against the State of nationality or the State of residence, the Court held “[t]hey may be invoked as against the State of nationality or of residence unless a reservation to section 22 of the General Convention has been validly made by that State”.⁵⁷

45. Concerning the legal status of rapporteurs in general, the Court held that they must be regarded as experts on mission. In the view of the Court, “[s]ince their status is neither that of a representative of a Member State nor that of a United Nations official, and since they carry out such research independently for the United Nations, they must be regarded as experts on missions within the meaning of section 22, even in the event that they are not, or are no longer, members of the Sub-Commission”.⁵⁸

46. The Court explicitly stated that Mr. Mazilu should be regarded as an expert on mission within the meaning of section 22 of the Convention, and that that section was applicable in the case of Mr. Mazilu.⁵⁹

(c) Interpretation of the Charter of the United Nations

47. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Court held the view that the General Assembly had acted in conformity with article 105 of the Charter, in approving the Convention on the Privileges and Immunities of the United Nations on 13 February 1946, and proposing it for ratification by the States Members of the United Nations.⁶⁰

(d) Interpretation of treaties

48. Points relating to the interpretation of provisions of the Convention on the Privileges and Immunities of the United Nations are covered in subsection (b) above.

⁵³ United Nations, *Treaty Series*, vol. 1, p. 15.

⁵⁴ *I.C.J. Reports 1989*, p. 194, para. 47.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*, para. 51.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*, para. 55.

⁵⁹ *Ibid.*, p. 198, para. 60.

⁶⁰ *Ibid.*, p. 192, para. 42.

10. Effect of requests for advisory opinions

49. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Court observed that the “content and extent of the obligations entered into by States”, when they consented to be bound by the Convention, were not modified by the request for an advisory opinion, and that they were not modified by the advisory opinion delivered by the Court.⁶¹

**11. Prior references to the binding effects of advisory opinions

12. Effect given to the advisory opinions of the Court

50. In the advisory opinion concerning the *Applicability of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations*, the Economic and Social Council adopted a resolution, on 25 May 1990,⁶² by which the Council expressed its appreciation to the Court, and welcomed its advisory opinion. Paragraph 2 of the operative part of that resolution reads as follows:

“2. Welcomes the opinion of the Court to the effect that rapporteurs and special rapporteurs of the Sub-Commission must be regarded as experts on mission within the meaning of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations.”⁶³

51. Mr. Mazilu, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, attended the forty-second session of the Sub-Commission, in 1991, and presented⁶⁴ his report on human rights and youth”.⁶⁵

C. Miscellaneous

1. Proposals aimed at requests for advisory opinions from the International Court of Justice

52. During the forty-seventh session of the General Assembly, at the request of a number of States, an item entitled “Request for an advisory opinion from the

International Court of Justice” was included in the agenda.⁶⁶

53. The General Assembly, through its Sixth Committee, considered, inconclusively, this proposal during its forty-eighth session,⁶⁷ and, at its forty-ninth session, in 1994, decided to give further consideration to this item at a future session of the General Assembly.⁶⁸

2. References in constituent instruments of international organizations to requests for advisory opinions

54. The 1992 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction stipulated that the Conference of the States Parties and the Executive Council could separately request advisory opinions of the Court, subject to authorization from the General Assembly of the United Nations.⁶⁹ Article XIV, paragraph 5, of the Convention reads as follows:

“5. The Conference and the Executive Council are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the activities of the Organization. An agreement between the Organization and the United Nations shall be

⁶⁶ The proposal projected to seek an advisory opinion of the Court on the following questions:

1. Does the conduct of a State which, directly or indirectly, arrests or apprehends a person in the territory of another State without the latter's consent, and transfers him to its own territory to subject him to its criminal jurisdiction, constitute a breach of international law?

2. If the answer to the first question is in the affirmative, what would be the international legal consequences in that case for each of those States and, possibly, for third States?, agenda item 151, document [A/47/713](#); draft resolution contained in document [A/47/249/Add.1](#) and Corr.1. For the summary of discussions on this item see [A/C.6/48/SR.34](#) and [A/49/745](#).

⁶⁷ G A decision 48/414.

⁶⁸ G A decision 49/424. Since then, the Assembly has not considered this item.

⁶⁹ The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction adopted by the Conference on Disarmament in Geneva on 3 September 1992, and opened for signature in Paris, on 13 January 1993 (United Nations, *Treaty Series*, vol. 1974, p. 45).

⁶¹ *Ibid.*, p. 190, para. 35.

⁶² Resolution 1990/43.

⁶³ *Ibid.*

⁶⁴ [E/CN.4/Sub.2/1990/59](#), p. 128.

⁶⁵ [E/CN.4/Sub.2/1990/45](#) and Corr.1.

concluded for this purpose in accordance with Article VIII, paragraph 34 (a)".

55. As at 31 December 1994, the relationship agreement between the United Nations and the Chemical Weapons Organization had not yet been concluded.