

## SEPARATE OPINION OF JUDGE EVENSEN

I fully agree with the Advisory Opinion of the Court but have some additional views on one special aspect thereof. The Opinion states in paragraph 14 that “strong pressure had been exerted on him [Mr. Mazilu] and on his family”.

Thus in his letter of 5 April 1988 to Mr. Martenson, United Nations Under-Secretary-General for Human Rights, Mr. Mazilu maintains that “unfortunately, a strong pressure on me and on my family continues in order to sign such a paper”. The paper here referred to is a letter of resignation as rapporteur on the topic assigned to him on “Human rights and youth”. In a letter of 19 April 1988 to the Chairman of the relevant United Nations Sub-Commission he also complains that his own Government “did everything possible to discourage me to prepare it [the report]”.

As special incidents of such pressures Mr. Mazilu mentions in his letter of 8 May 1988 that: “Since 15 February 1988 more than twenty policemen are following me, my wife and my son day and night.”

In his letters he mentions as additional concrete examples of such harassments that his “access to the UN Information centre in Bucharest was blocked” and his “telephone has been disconnected”.

However, the sole question put to the Court in the request of ECOSOC is “the legal question of the applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities”. Thus the Court has not been requested to express itself on concrete violations of these provisions. But it seems evident that the pressures exerted have caused concern and hardship not only to Mr. Mazilu but also to his family. It seems obvious that the protection provided for in Article VI, Section 22, of the 1946 Convention cannot be confined only to the “expert Mazilu” but must apply to a reasonable extent to his family. This seems self-evident and has been touched upon in one special relation in Article V, Section 18 (*d*), of the Convention. It states that officials of the United Nations shall “be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration”.

However, this provision is one concrete expression of a basic general principle. The integrity of a person’s family and family life is a basic human right protected by prevailing principles of international law which derive not only from conventional international law or customary

international law but from “general principles of law recognized by civilized nations”.

Thus in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on 10 December 1948 the integrity of family and family life was laid down as a basic human right in Article 16, paragraph 3, as follows: “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.” This principle, which is a concrete expression of an established principle of human rights in the modern law of nations, has been similarly expressed in other international law instruments. Thus the European Convention on Human Rights (the Rome Convention) of 4 November 1950 provides in Article 8, paragraph 1: “Everyone has the right to respect for his private and family life, his home and his correspondence.”

The respect for a person’s family and family life must be considered as integral parts of the “privileges and immunities” that are necessary for “the independent exercise of their functions” under Article VI, Section 22, of the 1946 Convention on the Privileges and Immunities of the United Nations.

*(Signed)* Jens EVENSEN.

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