

BEFORE THE
THE INTERNATIONAL COURT OF JUSTICE
The Hague
The Netherlands

Request by the
United Nations Economic and Social Council
for an Advisory Opinion 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. Dumitru Mazilu,
as Special Rapporteur of the Sub-Commission on the
Prevention of Discrimination and Protection of Minorities

WRITTEN STATEMENT
OF THE
GOVERNMENT OF THE UNITED STATES OF AMERICA

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INTRODUCTION

By Resolution 1989/75 of May 24, 1989, the United Nations Economic and Social Council ("ECOSOC") has requested on a priority basis, pursuant to Article 96 of the Charter of the United Nations and in accordance with General Assembly Resolution 89(1) of December 11, 1946, an advisory opinion from the International Court of Justice ("Court") on the legal question of the applicability of Article VI, section 22 of Convention on the Privileges and Immunities of the United Nations ("the General Convention") in the case of Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities ("Sub-Commission").

Upon receiving this request, the Court decided that the United Nations and the States Parties to the General Convention are likely to be able to furnish information on the question submitted to the Court. By its Order of June 14, 1989, the Court has fixed July 31, 1989, as the time limit within which written statements may be submitted to the Court, in accordance with Article 66 of the Statute of the Court, and August 31, 1989, as the time limit within which States and organizations having presented written statements may submit written comments on other written statements, in accordance with Article 66, paragraph 4 of the Statute of the Court. The present Statement will examine the facts and the legal issues to which this request for an advisory opinion gives rise.

The General Convention accords various privileges and immunities to the United Nations as an organization, to representatives of Members of the United Nations, to United Nations officials and to experts on missions for the United Nations. Article VI, section 22 of the General Convention specifically requires States Parties to accord to "experts (other than officials coming within the scope of article V) performing missions for the United Nations" such privileges and immunities as are necessary for the independent exercise of their functions, and sets out what those privileges and immunities are "in particular."

The question of the applicability of Article VI, section 22 of the General Convention to the case of Mr. Mazilu is one that is important not only to ECOSOC and the Sub-Commission, but also to the United Nations, to all of its subsidiary organs and to the Member States of the United Nations. The question arises in the context of the inability of Mr. Mazilu, a Romanian national resident in Romania, to fulfill his functions as an expert performing a mission for the Sub-Commission due to the actions of the Government of Romania, a State Party to the General Convention.

The question thus touches upon sensitive issues regarding the limits of a State's authority over its nationals (or residents) who serve as experts for the United Nations or its subsidiary organs. The United States believes that Article VI, section 22 applies to the case of Mr. Mazilu and obligates Romania to permit communications between Mr. Mazilu and the

United Nations and to allow Mr. Mazilu to perform his mission as a special rapporteur for the Sub-Commission which, as the record in this case reflects, requires that he be permitted to travel to Geneva.

The United States believes that circumstances may arise under which a State may justifiably exercise jurisdiction over its nationals serving as experts of the United Nations in a way that may restrict the ability of such individuals to perform their mission.¹ In the circumstances of this case, however, the Court need not address difficult questions relating to the limits of a State's sovereign authority to assert jurisdiction over its resident nationals who are seeking to perform as United Nations experts. The Government of Romania has prevented the United Nations and Mr. Mazilu from even communicating with each other and has prevented Mr. Mazilu from traveling to Geneva to fulfill his mission as Special Rapporteur of the Sub-Commission on a ground that Mr. Mazilu contests -- that he is too ill to perform his mission. On this record, the Court need only determine that Mr. Mazilu, as a special rapporteur for the Sub-Commission, is entitled to the privileges and immunities set forth in Article VI, section 22, and that the Government of Romania must accordingly allow him to communicate with the United Nations and to travel to Geneva to fulfill his mission.

1. See pages 20-21, infra.

The Court's Jurisdiction

Article 65, paragraph 1 of the Statute of the Court authorizes the Court to give an advisory opinion "on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations ("Charter") to make such a request." The United Nations General Assembly, pursuant to Article 96, paragraph 2 of the Charter, authorized ECOSOC "to request advisory opinions of the International Court of Justice on legal questions arising within the scope of the activities of the Council."²

The Sub-Commission is a subsidiary organ of ECOSOC. Pursuant to ECOSOC resolution 9(II)(1946), the Commission on Human Rights ("Commission"), itself a functional commission of ECOSOC, established the Sub-Commission to undertake certain studies and to make recommendations to the Commission concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities, and to carry out any other functions entrusted to it by ECOSOC or by the Commission. Members of the Sub-Commission are nominated by Governments and are elected by the Commission, but serve in their personal capacity.

2. G.A. Res. 89(I)(1946).

In fulfilling its task to undertake studies on specific subjects, the Sub-Commission regularly appoints "special rapporteurs" to carry out the necessary research and to report his or her findings to the Sub-Commission. Legal questions relating to the privileges and immunities to which such a special rapporteur is entitled while engaged in these activities are accordingly legal questions arising within the scope of the activities of the Sub-Commission and its parent body, ECOSOC. The Court therefore has jurisdiction under Article 65, paragraph 1 of its Statute to render an advisory opinion on the question presented to it by ECOSOC.³

C. The Court's Discretion

The Court has repeatedly stated that, although its power to give advisory opinions under Article 65 of its Statute is

3. Section 30 of the General Convention provides for the referral of disputes between the United Nations and a Member State to the Court for an advisory opinion and that "the opinion of the Court shall be accepted as decisive by the parties." Romania has entered a reservation to the General Convention indicating that it does not consider itself bound by the provisions of Section 30. In the view of the United States, that reservation does not deprive the Court of jurisdiction to give an advisory opinion in response to a request from ECOSOC pursuant to Article 96 of the Charter. See Memorandum from The Legal Counsel, United Nations, to the Under-Secretary General for Human Rights, United Nations, August 30, 1988, entitled "Request for Legal Opinion on the Reservation made by Romania with respect to Section 30 of the Convention on the Privileges and Immunities of the United Nations."

discretionary, only compelling reasons would justify refusal of such a request.⁴ This request for an advisory opinion, the first ever by ECOSOC, presents the Court with no compelling reason to refuse the request. Indeed, the humanitarian concerns underlying the request, as well as the necessity for the United Nations to ensure that its experts receive the privileges and immunities to which they are entitled, provide the Court with strong grounds to render the requested advisory opinion, and to render it on a priority basis in accordance with ECOSOC Resolution 1989/75.

FACTUAL BACKGROUND

A. Appointment of Dumitru Mazilu as Special Rapporteur of the Sub-Commission

Dumitru Mazilu was elected in 1984 by the Commission to serve as one of the 26 members of the Sub-Commission until December 31, 1986.⁵ During the second year of his term of

4. Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 16, at P. 27; Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion, I.C.J. Reports 1962, p. 151 at p. 155; Judgments of the Administrative Tribunal of the ILO upon Complaints Made Against UNESCO, Advisory Opinion, I.C.J. Reports 1956, p. 77, at pp. 85-86.

5. Commission on Human Rights, Report on the Fortieth Session (6 February - 16 March 1984), pp. 192-3.

office, the Sub-Commission adopted a Resolution 1985/12 appointing Mr. Mazilu as a Special Rapporteur on human rights and youth, and requested him

to prepare a report on human rights and youth, analysing the efforts and measures for securing the implementation and enjoyment of human rights by youth, particularly the right to life, education and work, and to submit it to the Sub-Commission at its thirty-ninth [1987] session.

The Sub-Commission did not meet in 1986 due to financial constraints. On February 6, 1987, ECOSOC decided at its 1987 Organizational Session to extend the term of office of the current members of the Sub-Commission, including Mr. Mazilu, for one year.⁶

Mr. Mazilu did not appear at the 39th (1987) Sub-Commission session. The Government of Romania informed the Sub-Commission that Mr. Mazilu had suffered a heart attack and that he would not be able to participate in the proceedings. In the absence of Mr. Mazilu, and with due knowledge of the fact that his term was to expire on December 31, 1987, the Sub-Commission adopted decision 1987/112 on September 4, 1987, by which it deferred until its 40th (1988) session consideration of the agenda item under which Mr. Mazilu was to have presented his report on human rights and youth. The

6. ECOSOC decision 1987/102.

Sub-Commission also included on its provisional agenda for its 40th session a reference to Mr. Mazilu's report, and included that report on a list of studies under preparation by members of the Sub-Commission to be submitted at the 40th session.

B. Actions by the Government of Romania to prevent Dumitru Mazilu from fulfilling his duties as Special Rapporteur

At the February-March 1988 session of the Commission, the Government of Romania did not nominate Mr. Mazilu for re-election to the Sub-Commission, but instead nominated Ion Diaconu, who was elected. Shortly after his election, Mr. Diaconu presented to the Chairman of the Sub-Commission a report on human rights and youth. The United Nations Secretariat refused to circulate this report, however, on grounds that Mr. Diaconu's election to the Sub-Commission had no bearing on the continuing appointment of Mr. Mazilu as the Special Rapporteur charged with preparing and presenting the report on human rights and youth. ⁷

7. See Memorandum of August 23, 1988, from the United Nations Office of Legal Affairs to the Director-General, United Nations Office at Geneva entitled, "Question of the applicability of the Convention on the Privileges and Immunities of the United Nations to the situation of Mr. Dumitru Mazilu charged by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in its resolution 1985/12 with the preparation of a report on human rights and youth," p. 3.

In April and May 1988, Mr. Mazilu transmitted to the United Nations secretariat in Geneva a preliminary draft of his report on human rights and youth, and indicated that he wished to come to Geneva in August to present his finalized report at the 40th session of the Sub-Commission. At the beginning of its 40th session, the Sub-Commission invited all its special rapporteurs, including Mr. Mazilu, to attend.

In a letter dated August 11, 1988, delivered to the Chairman of the Sub-Commission by a personal intermediary, Mr. Mazilu described his situation as follows:

I would like to inform you that I am ready to come to the present session of the Sub-Commission any time. I have no personal problems which can prevent me to come to Geneva in order to finalize and to submit my report to the Sub-Commission. There is only one official problem: I need the approval of my authorities, which since 5 May '86 persistently have refused me permission to come to Geneva.

Dear Mr. Chairman, Dear Colleagues and Friends, please inform the Romanian authorities and their special expert to the Sub-Commission that to prepare and to submit a report on human rights and youth is an important international task, but in no case a political crime. In conformity with the provisions of the UN Charter, the pertinent resolutions of the General Assembly, of the Economic Human Rights [sic] and its Sub-Commission, every member State has the duty to facilitate the work of a United Nations special rapporteur and not to prevent it. Consequently, please ask the Romanian authorities to put an end to the repressive measures and police terror against my family.

I am determined to do everything possible to fulfill to the best of my ability my task as a UN special rapporteur on human rights and youth. It is my firm conviction that this will serve the noble cause of human rights in our complex and contradictory world. So help me God.

The Government of Romania, however, did not permit Mr. Mazilu to appear at the 40th session of the Sub-Commission. In light of his absence, the Sub-Commission adopted Decision 1988/102 on August 15, 1988, by which it requested the United Nations Secretary-General

to establish contact with the Government of Romania and to bring the Government's attention the Sub-Commission's urgent need to establish personal contact with its Special Rapporteur, Mr. Dumitru Mazilu, and to convey the request that the Government assist in locating Mr. Mazilu and facilitate a visit to him by a member of the Sub-Commission and the secretariat to help him in the completion of his study on human rights and youth, if he so wishes.

In response to this decision, the Government of Romania transmitted the following communication to the Sub-Commission on August 17, 1988:

Mr. Mazilu had been ill for some time and had retired from the Foreign Ministry, who had so informed the Commission and Sub-Commission in Geneva. He was thus unable to proceed with the preparation of the report on Human Rights and Youth. The Government had not presented him as a candidate for re-election to the Sub-Commission. The Secretariat had no juridical basis to intervene in a matter between a citizen and his Government. Moreover, there was no basis for any form of investigation in Bucharest, which would constitute interference in internal affairs. The Romanian Government rejected (sic) the request to allow a visit to Mr. Mazilu by a member of the Sub-Commission and the Secretariat for the reasons given above.

Two days later, Mr. Mazilu wrote a letter to Jan Martenson, Director-General of the United Nations Office at Geneva, in which he stated, "I would like to inform you that I am ready to come any time to Geneva to submit my report."

In the opinion of August 23, 1988, requested by the Sub-Commission, the United Nations Office of Legal Affairs issued an opinion concerning the privileges and immunities to which Mr. Mazilu is entitled as a special rapporteur of the Sub-Commission. In particular, this opinion concluded that:

Mazilu appears to have a valid assignment from the Sub-Commission and, when working or attempting to work on that assignment, is therefore performing a task or mission for the United Nations. He should thus be considered an expert on a mission for the United Nations within the meaning of Article VI. Romania became a party to the General Convention on 8 July 1956 without any reservation to Article VI. Accordingly, Romania must accord to Mazilu privileges and immunities necessary for the independent exercise of his functions during the period of his assignment, including time spent on journeys in connection with his mission. He is also to be accorded immunity from legal process even after completion of his assignment.

On September 1, 1988, the Sub-Commission adopted Resolution 1988/37 asserting that Mr. Mazilu, "in his continuing capacity of Special Rapporteur," continued to enjoy the privileges and immunities accorded under Article VI, and urging the Government of Romania to allow Mr. Mazilu to complete and present his report on human rights and youth to the Sub-Commission. In the event that the Government of Romania failed to do so, the resolution invited the Commission to urge ECOSOC to request an advisory opinion from the Court on the applicability of the relevant provisions of the General Convention to the present case.

The Government of Romania did not comply with this request of the Sub-Commission. On March 6, 1989, the Commission

adopted Resolution 1989/37, in which it concurred with the view expressed by the Sub-Commission in its Resolution 1988/37 that, in his continuing capacity as a special Rapporteur, Mr. Mazilu enjoys privileges and immunities accorded under Article VI of the General Convention necessary for the performance of his duties. The resolution also recommended that ECOSOC adopt a resolution concluding that a difference has arisen between the United Nations and the Government of Romania and requesting an advisory opinion from the Court.

The Government of Romania continued to prevent Mr. Mazilu from fulfilling his functions as a special rapporteur. On May 24, 1989, ECOSOC acted upon with this recommendation of the Commission and adopted Resolution 1989/75 requesting the advisory opinion presently at issue.

APPLICABILITY OF ARTICLE VI, SECTION 22
OF THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES
OF THE UNITED NATIONS

A. As a Special Rapporteur of the Sub-Commission,
Dumitru Mazilu is an Expert on a Mission for the
United Nations within the meaning of Article VI

The first issue arising in regard to the applicability of Article VI, section 22 in the case of Mr. Mazilu is whether Mr. Mazilu is an expert on a mission for the United Nations within the meaning of Article VI of the General Convention. The General Convention without question applies to the Sub-Commission, a subsidiary organ of ECOSOC. ECOSOC, acting under

authority granted to it by Article 68 of the Charter,⁸ created the Commission on Human Rights and authorized the Commission to establish the Sub-Commission.⁹ The Sub-Commission is thus a body established by virtue of powers conferred by the Charter.

Article V of the General Convention applies to individuals specified by the United Nations Secretary-General, usually members of the Secretariat who represent the United Nations in their official capacity. Article VI, by contrast, may be read to apply to individuals who have been appointed or elected under the auspices of the United Nations or one of its organs to perform a specific mission, but who serve in their personal capacity and do not officially represent a Member State of the United Nations.

Special rapporteurs appointed by the Sub-Commission are similarly experts on missions for the United Nations. The Sub-Commission appoints individuals to be special rapporteurs to monitor worldwide compliance with human rights standards in that area or to collect data and produce reports on specialized topics within that area. While serving as Sub-Commission special rapporteurs, these individuals must act in their personal capacity, not as representatives of governments.

8. Article 68 of the Charter provides that ECOSOC "shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions."

9. ECOSOC resolution 9 (II) (1946).

As a member of the Sub-Commission, Mr. Mazilu was an "expert on a mission for the United Nations" within the meaning of Article VI of the General Convention by virtue of holding that office.¹⁰ The provisions of Article VI also applied to Mr. Mazilu from the time the Sub-Commission appointed him as a special rapporteur on the topic of human rights and youth in 1985. Although the term of Mr. Mazilu as Member of the Sub-Commission expired on December 31, 1987, his appointment as Special Rapporteur continued after that date. The decision of the Sub-Commission in September 1987 extending consideration of Mr. Mazilu's report until the Sub-Commission's 1988 session, with full knowledge that his term would expire before that time, effectively continued Mr. Mazilu's appointment as Special Rapporteur, and therefore as an expert on a mission for the United Nations, beyond the expiration of his term as a Member of the Sub-Commission.

While some types of missions by their very nature are complete when a term of appointment expires, this is not the case in connection with missions involving the completion and submission of reports. In such cases, the expert involved may need additional time to complete the assignment, and the agency

10. Memorandum of August 23, 1988, from the United Nations Office of Legal Affairs to Director-General, United Nations Office at Geneva, supra note 7, at p. 1 ("members of the Sub-Commission, during their terms of office, are accorded the legal status of experts on mission for the United Nations within the meaning of Article VI of the 1946 Convention").

involved may -- as in this instance -- require the expert's participation in the consideration of the report when it is completed.

In short, Mr. Mazilu became an expert on a mission for the United Nations within the meaning of Article VI from the beginning of his term of office as a member of the Sub-Commission in 1984. His status as an expert on a mission for the United Nations continues by virtue of his ongoing assignment as Special Rapporteur for the Sub-Commission on human rights and youth, which the Sub-Commission concluded was necessary in order to permit him to complete and present to report he was assigned.

B. The provisions of Article VI apply as between Romania and Mr. Mazilu, a Romanian resident national

Traditionally, the subjects of international law are States. The relationship between a State and its nationals has been viewed as an incident of the sovereignty of States, and accordingly outside the scope of international law. Certain exceptions, however, have been recognized, for example, in the area of human rights. An exception of particular relevance to this case has developed exclusively on the basis of the consent of States and relates to the relationship between a State and its nationals employed by international organizations. In the view of the United States, derogations of the sovereignty of the State over such nationals must be construed with appropriate

respect for the sovereign rights of the State concerned as well as the objective of the fulfillment of the purposes of international organizations.

An analysis of the terms of Article VI, section 22, of its history and the practice under the General Convention demonstrate that its provisions specifically obligate Romania, in the circumstances of this case, to permit the United Nations and Mr. Mazilu to communicate regarding Mr. Mazilu's mission for the Sub-Commission and to allow Mr. Mazilu to travel to Geneva to complete that mission.

The General Convention was intended to implement Article 105 of the Charter, which provides that officials of the Organization shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization. ¹¹ Article VI, section 22

11. While the drafters of Article 105 intended to ensure the free functioning of the the organs of the United Nations and the independent exercise of the functions and duties of their officials, they intended that the General Assembly would clarify and define the privileges and immunities necessary to achieve that purpose. Article 105 specifically provides that the General Assembly "may make recommendations with a view to determining the details of the application of . . . this Article or may propose a convention to the Members of the United Nations for this purpose."

The Preparatory Commission, in approving Article 105, recommended that the General Assembly take such action at its first session and provided in its Report not only its study on privileges and immunities, but also a draft convention for the consideration of the General Assembly. That draft served as the basis of the General Convention. Report of the Preparatory Commission of the United Nations, London, 1945, Ch. VII.

adds to those individuals who enjoy privileges and immunities necessary for the independent exercise of their functions "experts (other than officials coming within the scope of article V) . . . during the period of their missions, including time spent on journeys in connection with their missions."

Section 22 enumerates the following specific privileges and immunities to which such experts are entitled:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;
- (c) inviolability for all papers and documents;
- (d) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions; and
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

The obligation to accord the specified privileges and immunities is unqualified. Section 22 makes no distinction between the privileges and immunities to be accorded experts who are nationals of a State Party and those to be accorded to

other experts. Moreover, it is clear that where the drafters of the General Convention intended to make such a distinction, they did so. Section 15 of the General Convention makes inapplicable "as between a representative and the authorities of the State of which he is a national" the privileges and immunities accorded to representatives of Members. Section 22 contains no comparable provision.

[A textual analysis of the General Convention therefore demonstrates that the obligation of States Party to the Convention to accord the privileges and immunities under Article VI, section 22 applies to their nationals who are experts on missions for the United Nations. The intention to make such privileges and immunities applicable in that situation is also reflected in the history of the Convention. With respect to the immunity of officials of the United Nations from suit or legal process, the United Nations Preparatory Commission stated in its study of privileges and immunities:

While it will clearly be necessary that all officials, whatever their rank, should be granted immunity from legal process in respect of acts done in the course of their official duties, whether in the country of which they are nationals or elsewhere, it is by no means necessary that all officials should have diplomatic immunity. . . . 12

12. Report of the Preparatory Commission of the United Nations, supra Note 11, p. 62.

The subsequent practice of the parties to the General Convention also supports this view. At least eight States, including the United States, have become parties to the General Convention subject to reservations restricting or precluding the application of certain privileges and immunities as between those States and their nationals.¹³ The reservation of the United States, for example, provides that,

Paragraph (b) of section 18 regarding immunity from taxation and paragraph (c) of section 18 regarding immunity from national service obligations shall not apply with respect to United States nationals and aliens admitted to permanent residence.

The United Nations and at least one State Party to the General Convention informally expressed disagreement with the United States reservation and others like it. In their view, the obligation of States Parties to accord all privileges and immunities to qualified persons, including their own nationals, was so central to the proper functioning of the United Nations as to make those reservations inconsistent with the object and purposes of the General Convention.¹⁴ Both the reservations

13. One of those States subsequently withdrew that reservation. Romania, a State Party to the General Convention, has entered no comparable reservation.

14. See, e.g., Note No. 3822 from the Permanent Representative of the Kingdom of the Netherlands to the United Nations to the Secretary-General of the United Nations, date October 13, 1970.

and the resulting responses, however, demonstrate the view that, in the absence of a reservation, the privileges and immunities accorded by the General Convention under Section 18 to officials apply as between a State Party and its nationals. The same conclusion applies equally to experts under Section 22 of the General Convention.

It is clear from this analysis of the terms of Article VI, section 22, and of its history and the practice that has evolved over the past forty years, that States Parties must accord the privileges and immunities set forth in that provision to its nationals who are experts on missions for the United Nations. The privileges and immunities a State Party must accord to experts who are its nationals are, of course, qualified in accordance with the general principles which informed the drafting of the General Convention. One such principle was that "no official can have, in the country of which he is a national, immunity from being sued in respect of his non-official acts and from criminal prosecution."¹⁵

Thus, for example, if an individual serving as an expert were convicted of a serious non-political crime unrelated to the United Nations mission in the State of which he was a

15. Report of the Preparatory Commission of the United Nations, supra Note 11, p. 62.

national, that State would retain a sovereign right to imprison him even if this restricted his ability to perform his mission for the United Nations. In such a case, the State of nationality would be obligated to afford the expert as full an opportunity to perform his mission as the circumstances reasonably would allow, but travel outside the State's jurisdiction and custody would not necessarily be required.

Mr. Mazilu has not been prosecuted for, or even accused of, any crime. Therefore, in the view of the United States, the refusal of the Government of Romania to allow Mr. Mazilu to travel to Geneva, in the circumstances of the instant case, violates subsection (a) of section 22, which obligates Romania to accord Mr. Mazilu immunity from detention for the purpose of performing his official acts, i.e., the preparation and presentation of his report. The Government of Romania refuses to grant Mr. Mazilu the necessary official authorization to travel to Geneva to perform his mission for the United Nations. In that respect, the Government of Romania continues to detain Mr. Mazilu in Romania. In addition, the refusal of the Government of Romania to allow the United Nations and Mr. Mazilu to communicate, in the circumstances of the instant case, violates subsection (d) of Article VI, section 22, obligating the Government of Romania to accord Mr. Mazilu the right to communicate with the United Nations.

CONCLUSION

Article VI, section 22 of the Convention on the Privileges and Immunities of the United Nations applies in the case of Dumitru Mazilu, as Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. Pursuant to Article VI, section 22, the Government of Romania is obligated to permit communications between Mr. Mazilu and the United Nations and to allow Mr. Mazilu to travel to Geneva to perform his mission for the Sub-Commission.