

Human Rights Council

51st session

Item 5 of the agenda (report EMRIP)

28 September 2022

Estimado Presidente, Ladies and Gentlemen,

As the Head of a training organization, I generally do not take the floor during the sessions of the UN human rights bodies. However, today I believe I have to speak.

Last April 2022, your Council elected Mrs. Alexa Alfred to the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). She came to Geneva to prepare and attend her first meeting with EMRIP. But at the end of this 15th EMRIP session, she was prevented from boarding her confirmed flight to return home to Nicaragua.

This is one of the worst cases or **reprisals** from the last decades. But it is not only a case of reprisals against a well-known human rights defender. The action of the Government of Nicaragua is also a brutal attack **against the EMRIP itself**. With several members of *Geneva for Human Rights*, I was involved 40 years ago in the creation of the Working group of the Sub-Commission on Indigenous Populations. Since the creation of your Council, we supported with our Expert Seminars the efforts to strengthen the mandate of EMRIP, in particular in the preparation of the 2014 World Conference. This sad attack against one member of your Mechanism opens a box of Pandora with the risk of other EMRIP experts being the victims of reprisals in the future.

And it is not only an attack against EMRIP. It also concerns **all independent experts** appointed by the Council, including all the mandate-holders of the Special procedures. In different previous functions, I had the privilege of

coordinating the campaign in the 80s for **Mr. Dimitru Mazilu**, who was prevented to attend sessions of the Sub-Commission by the then dictatorship of Romania. We then obtained that the International Court of Justice ruled in an Advisory opinion that Section 22 of Article VI of the *UN Convention on Privileges and Immunities* applied to Mr. Mazilu (who was not a mandate-holder of a Special procedure, but a member of a mechanism of the Commission on human rights). Another Advisory Opinion of the Court confirmed this basic principle in the case of a Special Rapporteur of the UN, Dr. **Param Cumaraswamy** (1999). In accordance with this ruling from the world court, all mandate-holders have to be considered as experts in mission, including EMRIP. They don't produce their reports only during their meetings, but also in-between their sessions (cf. the work they realized on-line during the Covid pandemic). Their privileges and immunities therefore are not limited to a particular meeting. It protects them during the entire term of their appointment.

We therefore cannot accept this attack. We call upon Your Council and upon the OHCHR to take sharp and decisive decisions. On our side, we have decided to launch a campaign to obtain the full respect of the independence of independent experts appointed by your Council. Our campaign will end with the confirmation of this principle of the world court.

Thank you Mr. Chairman.
Adrien-Claude Zoller
President Geneva for Human Rights