

Distr.
LIMITED

E/CN.4/Sub.2/1993/L.33
18 August 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session
Agenda item 10 (d)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES:
THE RIGHT TO A FAIR TRIAL

Mr. Alfonso Martínez, Mrs. Attah, Mr. Boutkevitch, Ms. Chavez,
Mrs. Daes, Mr. Despouy, Mr. Eide, Mr. Guissé, Mr. Hatano,
Mr. Khalil, Mrs. Palley, Mr. Saboia, Mr. Sachar, Mrs. Warzazi,
and Mr. Yimer: draft resolution

1993/... The right to a fair trial

The Sub-Commission on Prevention of Discrimination and Protection of
Minorities,

Recalling its resolution 1990/18 of 30 August 1990, in which it decided
to entrust Mr. Chernichenko and Mr. Treat with the preparation of a study
entitled "The right to a fair trial: current recognition and measures
necessary for its strengthening",

Recalling also its resolutions 1991/14 of 28 August 1991 and 1992/21 of
27 August 1992, as well as Commission on Human Rights resolutions 1991/43 of
5 March 1991 and 1992/34 of 28 February 1992, and decision 1993/106 of
5 March 1993,

Having examined the preparatory report (E/CN.4/Sub.2/1990/34), the
preliminary report (E/CN.4/Sub.2/1991/29), and the progress reports
(E/CN.4/Sub.2/1992/24 and Add.1-3 and E/CN.4/Sub.2/1993/24 and Add.1-2) on the
right to a fair trial, prepared by the Special Rapporteurs,

GE.93-14853 (E)

Welcoming the recommendation of the Special Rapporteurs that the Sub-Commission assess possible means to strengthen the right to a fair trial,

1. Expresses its appreciation to Mr. Stanislav Chernichenko and Mr. William Treat for their progress report (E/CN.4/Sub.2/1993/24 and Add.1-2), summarizing material regarding national practices on the right to a fair trial and appending a preliminary draft of a third optional protocol to the International Covenant on Civil and Political Rights;

2 Expresses its appreciation to the Governments and non-governmental organizations that provided information for the study, for example by responding to the questionnaires prepared by the Special Rapporteurs;

3. Requests the Special Rapporteurs to submit a final report to the Sub-Commission at its forty-sixth session, including recommendations for strengthening the implementation of the right to a fair trial together with a draft third optional protocol to the International Covenant on Civil and Political Rights, and considering the possibility of elaborating a draft declaration or body of principles on the right to a fair trial and a remedy;

4. Requests the Secretary-General to transmit the draft third optional protocol to Governments, non-governmental organizations and the Human Rights Committee as soon as possible after the present session of the Sub-Commission, for written comments and suggestions;

5. Decides to consider at its forty-sixth session transmitting to the Commission on Human Rights the draft third optional protocol to the International Covenant on Civil and Political Rights, aiming at guaranteeing under all circumstances the right to a fair trial and a remedy;

6. Also decides to consider at its forty-sixth session the other recommendations of the Special Rapporteurs for strengthening the implementation of the right to a fair trial, including the possibility of elaborating a draft declaration or body of principles on the right to a fair trial and a remedy;

7. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, noting resolution 1993/... of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, expresses its appreciation to the Special Rapporteurs, Mr. Stanislav Chernichenko and Mr. William Treat, for their work on the study entitled, 'The right to a fair trial: current recognition and

measures necessary for its strengthening'; endorses the request to the Special Rapporteurs to continue their study, taking into account, inter alia, the comments made in the discussion of their preparatory, preliminary and progress reports, and to submit to the Sub-Commission, at its forty-sixth session, a final report which should include a set of conclusions and recommendations aimed, inter alia, at developing a draft third optional protocol to the International Covenant on Civil and Political Rights aiming at guaranteeing under all circumstances the right to a fair trial and a remedy; and recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, recalling its decision 1993/... of July 1993, approves the endorsement by the Commission on Human Rights of the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to Mr. Stanislav Chernichenko and Mr. William Treat to submit their final report on the right to a fair trial, as described in Sub-Commission resolution 1993/... of .. August 1993, and requests the Secretary-General to provide the Special Rapporteurs with all the assistance necessary, including a technical meeting of experts for three days, to enable them to carry out their work successfully."
