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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session
Agenda item 21

DRAFT REPORT OF THE SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS
FORTY-FIFTH SESSION

Rapporteur: Mr. Ioan Maxim

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THE INDEPENDENCE OF LAWYERS

* E/CN.4/Sub.2/1993/L.10 and addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to the Commission on Human Rights will be contained in document E/CN.4/Sub.2/1993/L.11 and addenda.

XII. INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY, JURORS AND ASSESSORS
AND THE INDEPENDENCE OF LAWYERS

1. The Sub-Commission considered item 11 together with item 10 (see chapter XI), at its 17th to 25th and 34th meetings, on 13th to 19th and on 26th August 1993.
2. The Sub-Commission had before it the following documents in connection with its consideration of the item:
 - Report concerning the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers submitted by Mr. Louis Joinet, pursuant to Sub-Commission resolution 1992/35 (E/CN.4/Sub.2/1993/25 and Add.1);
 - Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II) (E/CN.4/Sub.2/1993/NGO/15);
3. At the 23rd meeting, on 18 August 1993, the Special Rapporteur, Mr. L. Joinet, presented his report (E/CN.4/Sub.2/1993/25 and Add.1).
4. In the general debate on the item, statements were made by the following members of the Sub-Commission: Mr. Despouy (24th), Mr. Eide (22nd), Mr. Khalil (22nd), Mrs. Palley (20th), Mr. Sachar (22nd) and Ms. Warzazi (22nd).
5. Statements were made by the observers for Colombia (24th), Honduras (24th), Romania (24th), Sri Lanka (24th) and Turkey (24th).
6. The Sub-Commission also heard statements by representatives of the following non-governmental organizations: American Association of Jurists (19th), Centre Europe Tiers Monde (20th), France Liberté: Fondation Danielle Mitterand (18th), International Commission of Jurists (18th), International Educational Development (20th), International Falcon Movement-Socialist Educational International (18th), International Federation of Human Rights (18th), International League for the Rights and Liberation of Peoples (20th), International Progress Organization (18th), International Union of Lawyers (18th), Latin American Federation of Associations of Relatives of Disappeared Detainees (22nd), National Aboriginal and Islander Legal Service Secretariat (24th), Service Peace and Justice in Latin America (19th), World Organization against Torture (20th).

7. Statements equivalent to a right of reply were made by the observers for Turkey (20th) and the United Kingdom of Great Britain and Northern Ireland (20th).

Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

8. At the 33rd meeting, on 26 August 1993, the Sub-Commission considered draft resolution E/CN.4/Sub.2/1993/L.52, sponsored by Mr. Despouy, Mr. Eide, Mr. Guissé, Mr. Khalil and Mr. Yokota.

9. Mr. Guissé orally revised the draft resolution as follows:

Insert, in operative paragraph 6, the words "en ce qui concerne les magistrats et les avocats ainsi que les personnels et auxiliaires de justice" after the words "du pouvoir judiciaire"

10. Mr. Alfonso Martínez proposed the following amendments:

Insert, in operative paragraph 3, after the words "impartiality of the judiciary in the form" the words "and with the mandate which the Commission may deem appropriate".

11. Mr. Eide made the following revision:

In operative paragraph 3, the words "and recommends that this takes the form of" were inserted after the words "impartiality of the judiciary".

12. Ms. Warzazi proposed the following amendments:

(a) Insert in operative paragraph 3, the words "ainsi que la nature des problèmes susceptibles de porter atteinte à cette indépendance et cette impartialité" after the words "pouvoir judiciaire";

(b) Replace operative paragraph 3 (c) by "Se saisir de situations réquerant une assistance technique lorsque celle-ci est demandée par les Etats concernés".

13. Mr. Heller proposed the following amendment:

(a) Replace, in operative paragraph 3, the word "debería" by the word "podría";

(b) Replace subparagraphs 3 (b) and (c) of operative paragraph 3 by one paragraph reading as follows: "Identificar y registrar los atentados a la independencia de la judicatura, y prestar asistencia técnica en caso de que ella sea solicitada".

(c) Add in operative paragraph 3 (d) after the word "terrorismo" the word "y narcotrafico".

14. All the proposed amendments were accepted by the sponsors.

15. Statements relating to the draft resolution, revisions and amendments were made by Mr. Alfonso Martínez, Mr. Eide, Mr. Despouy, Ms. Forero Ucros, Mr. Guissé, Mr. Joinet, Ms. Ksentini and Mr. Yokota.

16. The draft resolution, as revised and amended, was adopted without a vote.

17. For the text as adopted, see chapter II, section A, resolution 1993/39.
