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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 10

FREEDOM OF MOVEMENT

Mr. Alfonso Martínez, Mr. Ali Khan, Ms. Attah, Mr. Bossuyt,
Mr. Chernichenko, Ms. Daes, Mr. Diaz Uribe, Mr. Eide,
Mr. El-Hajjé, Mr. Fan, Mr. Fix Zamudio, Mr. Guissé,
Ms. Gwanmesia, Mr. Hatano, Mr. Joinet, Mr. Khalil,
Mr. Lindgren Alves, Mr. Maxim, Mr. Mehedi, Ms. Palley,
Mr. Park, Ms. Warzazi and Mr. Yimer: draft resolution

1997/... Study concerning the right to freedom of movement

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

Recalling the Study of Discrimination in Respect of the Right of
Everyone to Leave Any Country, Including His Own, and to Return to His Country
(United Nations publication, Sales No. E.64.XIV.2), submitted to the
Sub-Commission at its fifteenth session in 1963 by the Special Rapporteur,
Mr. José D. Ingles (Philippines), and the draft principles respecting this
right adopted by the Sub-Commission at the same session,

Recalling also the study concerning an analysis of the current trends
and developments regarding the right to leave any country including one's own,
and to return to one's own country (E/CN.4/1988/35 and Add.1 and
Add.1/Corr.1), submitted to the Sub-Commission at its fortieth session by the
Special Rapporteur, Mr. C.L.C. Mubanga-Chipoya (Zambia),

Reaffirming the right of everyone lawfully within the territory of a State to liberty of movement and freedom to choose his residence, and the prohibition of arbitrary deprivation of the right to leave any country, including one's own, and to return to one's country, as set out in article 12 of the International Covenant on Civil and Political Rights and article 13 of the Universal Declaration of Human Rights,

Taking note of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23), which reaffirms that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to his own country,

Recalling its decision 1996/109 of 23 August 1996, in which the Sub-Commission, mindful of the links between the protection of minorities, prevention of discrimination, population movements and displacements, freedom of movement, the right to leave and to return to one's own country and the right to seek and enjoy asylum, decided, without a vote, to entrust Mr. Volodymyr Boutkevitch with the task of preparing, without financial implications, a working paper on the right to freedom of movement and related issues,

1. Welcomes the working paper on the right to freedom of movement and related issues prepared by Mr. Volodymyr Boutkevitch (E/CN.4/Sub.2/1997/22);

2. Decides, since this subject requires careful and comprehensive inquiry, to recommend to the Commission on Human Rights and the Economic and Social Council the appointment of Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, to have the possibility to enter other countries without discrimination, and to seek and enjoy asylum, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights;

3. Requests the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-first session;

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

"The Commission on Human Rights, taking note of resolution 1997/... of ... August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the decision of the Sub-Commission to appoint Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, to have the possibility to enter other countries, without discrimination, and to seek and enjoy asylum, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights. The Commission also decides to invite Governments, competent bodies of the United Nations, the specialized agencies, regional intergovernmental organizations and non-governmental organizations to provide or continue to provide information on this question, and recommends the following draft decision to the Economic and Social Council for adoption:

'The Economic and Social Council, taking note of Commission on Human Rights decision 1998/... of 1998, approves the endorsement by the Commission on Human Rights of the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, and to have the possibility to enter other countries without discrimination, and to seek and enjoy asylum, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights, and to submit a preliminary report to the Sub-Commission at its fifty-first session, and requests the Secretary-General to provide all assistance necessary to enable him to complete his study.'
