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COMMISSION ON HUMAN RIGHTS
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Agenda item 11

CIVIL AND POLITICAL RIGHTS

Albania*, Angola*, Argentina, Austria*, Belarus*, Belgium*, Bulgaria*, Canada, Costa Rica*, Czech Republic, Denmark*, Eritrea*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland*, Italy, Latvia, Liechtenstein*, Lithuania*, Luxembourg, the former Yugoslav Republic of Macedonia*, Madagascar, Netherlands*, Norway, Poland, Portugal, Romania, Senegal, Slovakia*, Spain, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland: draft resolution

2000/... Question of arbitrary detention

The Commission on Human Rights,

Reaffirming articles 3, 9, 10 and 29, as well as other relevant provisions, of the Universal Declaration of Human Rights,

Recalling articles 9, 10, 11 and 14 to 22 of the International Covenant on Civil and Political Rights,

Bearing in mind that, in accordance with Commission resolution 1991/42 of 5 March 1991, the task of the Working Group on Arbitrary Detention is to investigate cases of

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned,

Reaffirming its resolution 1999/37 of 26 April 1999,

1. Takes note:

(a) Of the report of the Working Group on Arbitrary Detention (E/CN.4/2000/4 and Add.1 and 2);

(b) Of the work of the Working Group on Arbitrary Detention and underlines the positive initiatives it has taken to strengthen cooperation and dialogue with States and the establishment of cooperation with all those concerned by the cases submitted to it for consideration, in accordance with its mandate;

(c) Of the importance that the Working Group attaches to coordination with other mechanisms of the Commission, with other competent United Nations bodies and with treaty bodies, as well as to the strengthening of the role of the United Nations High Commissioner for Human Rights in such coordination and encourages the Working Group to take all necessary measures to avoid duplication with those mechanisms, in particular regarding the treatment of the communications it receives and field visits;

2. Also takes note of the adoption by the Working Group of its Deliberation No. 5, which is contained in annex II to document E/CN.4/2000/4 and relates to the situation of immigrants and asylum-seekers and guarantees concerning persons held in custody, with a view to ensuring better prevention;

3. Requests the Governments concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;

4. Encourages the Governments concerned:

(a) To implement the recommendations of the Working Group concerning persons mentioned in its report who have been detained for a number of years;

(b) To take appropriate measures in order to ensure that their legislation in these fields is in conformity with the relevant international standards and the relevant international legal instruments applicable to the States concerned;

(c) Not to extend states of emergency beyond what is strictly required by the situation, in accordance with the provisions of article 4 of the International Covenant on Civil and Political Rights, or to limit their effects;

5. Encourages all Governments to invite the Working Group to visit their countries so that it may carry out its mandate even more effectively;

6. Requests the Governments concerned to give the necessary attention to the “urgent appeals” addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its possible final conclusions;

7. Expresses its profound thanks to the Governments which have extended their cooperation to the Working Group and responded to its requests for information and invites all Governments concerned to demonstrate the same spirit of cooperation;

8. Takes note with satisfaction of the fact that the Working Group has been informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases which have not yet been resolved;

9. Notes with concern the comments by the Working Group on the excesses of military justice that may be found to exist in some cases;

10. Also notes with concern the comments by the Working Group on the situation of human rights defenders;

11. Requests the Secretary-General:

(a) To extend his assistance to Governments expressing the wish to receive it, as well as to special rapporteurs and working groups, with a view to ensuring the promotion and observance of the guarantees relating to states of emergency that are laid down in the relevant international instruments;

(b) To ensure that the Working Group receives all necessary assistance, particularly with regard to the staffing and resources needed to continue to discharge its mandate, especially in respect of field missions;

12. Decides to renew, for a three-year period, the mandate of the Working Group, composed of five independent experts entrusted with the task of investigating cases of deprivation of liberty imposed arbitrarily, provided that no final decision has been taken in such cases by domestic courts in conformity with domestic law, with the relevant international standards set forth in the Universal Declaration of Human Rights and with the relevant international instruments accepted by the States concerned;

13. Requests the Working Group to submit to it, at its fifty-seventh session, a report on its activities and on the implementation of the present resolution and to include any suggestions and recommendations which would enable it to carry out its task in the best possible way and to continue its consultations to that end in the framework of its terms of reference;

14. Decides to continue its consideration of this question at its fifty-seventh session under the relevant agenda item;

15. 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 resolution 2000/... of ... April 2000, endorses the Commission’s decision to renew, for a three-year period, the mandate of the Working Group, composed of five independent experts entrusted with the task of investigating cases of deprivation of liberty imposed arbitrarily, provided that no final decision has been taken in such cases by domestic courts in conformity with domestic law, with the relevant international standards set forth in the Universal Declaration of Human Rights and with the relevant international instruments accepted by the States concerned.”
