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**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE  
FIFTY-NINTH SESSION OF THE COMMISSION**

**Draft report of the Commission**

**Rapporteur: Mr. Branko SOCANAC**

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**XI. Civil and political rights, including the questions of:**

- (a) Torture and detention;**
- (b) Disappearances and summary executions;**
- (c) Freedom of expression;**
- (d) Independence of the judiciary, administration of justice, impunity;**
- (e) Religious intolerance;**
- (f) States of emergency;**
- (g) Conscientious objection to military service**

1. The Commission considered agenda item 11 at its 32nd meeting, on 4 April, at its 35th meeting, on 7 April, at its 36th and 37th meetings, on 8 April, at its 38th meeting on 9 April, at its 57th, 58th and 59th meetings, on 23 April, and at its 60th meeting on 24 April 2003.

2. For the documents issued under agenda item 11, see annex VI to the present report. For a list of all resolutions and decisions adopted by the Commission and Chairperson's statements, by agenda item, see annex V.

3. At the 32nd meeting, on 4 April 2003, Mr. Ambeyi Ligabo, Special Rapporteur on freedom of opinion and expression, introduced his report (E/CN.4/2003/67 and Add.1-2).

4. At the 35th meeting, on 7 April 2003, Mr. Louis Joinet, Chairperson of the Working Group on Arbitrary Detention, introduced the report of the Working Group (E/CN.4/2003/8 and Add.1-3).

5. During the interactive dialogue, the representatives of Cuba addressed questions to the Special Rapporteur. The Special Rapporteur responded.

6. At the same meeting, Mr. Abdelfattah Amor, the Special Rapporteur on freedom of religion or belief, introduced his report (E/CN.4/2003/66 and Add.1).

7. At the 36th meeting, on 8 April 2003, a statement was read out by a member of the secretariat on behalf of Mr. Walkate, Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture.

8. At the same meeting, Mr. Theo van Boven, Special Rapporteur on the question of torture, introduced his report (E/CN.4/2003/68 and Add.1-2), and his study (E/CN.4/2003/69).

9. During the interactive dialogue, the representatives of Canada and Cuba and the observer for Greece addressed questions to the Special Rapporteur. The Special Rapporteur responded.

10. At the same meeting, Mr. Bernard Kessedjian, Chairperson-Rapporteur of the open-ended working group on a draft legally binding normative instrument for the protection of all persons from enforced disappearance, introduced the report of the working group (E/CN.4/2003/71).

11. At the same meeting, Mr. Diego García-Sayan, Chairperson of the Working Group on Enforced or Involuntary Disappearances, introduced the report of the Working Group (E/CN.4/2003/70).

12. During the interactive dialogue, the representatives of Cuba, Guatemala and Japan and the observer for Greece addressed questions to the Special Rapporteur. The Special Rapporteur responded.

13. At the same meeting, Ms. Asma Jahangir, Special Rapporteur on extrajudicial, summary or arbitrary executions, introduced her report (E/CN.4/2003/3 and Add.1-4).

14. During the interactive dialogue, the observers for Greece, Jamaica, Norway and Switzerland addressed questions to the Special Rapporteur. The Special Rapporteur responded.

15. At the same meeting, Dato' Param Cumaraswamy, Special Rapporteur on the independence of judges and lawyers, introduced his report (E/CN.4/2003/65 and Add.1-4).

16. During the interactive dialogue, the representatives of Cuba and the United States of America and the observer for Greece addressed questions to the Special Rapporteur. The Special Rapporteur responded.

17. At the 58th meeting, on 23 April 2003, the Deputy High Commissioner for Human Rights made a statement.

18. In the general debate on agenda item 11, statements were made by members of the Commission, observers and representatives of non-governmental organizations. For a detailed list of speakers, see annex III.

#### **Question of arbitrary detention**

19. At the 57th meeting, the representative of France introduced draft resolution E/CN.4/2003/L.40, sponsored by France, Iceland, Monaco, Romania, Slovakia and Slovenia. Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bulgaria, Burundi, Cameroon,

Canada, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Equatorial Guinea, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Kenya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mexico, Moldova, Monaco, Morocco, Nicaragua, Norway, Peru, Poland, Portugal, the Republic of Korea, Romania, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay subsequently joined the sponsors.

20. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

21. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/31.

#### **Torture and other cruel, inhuman or degrading treatment or punishment**

22. At the same meeting, Denmark introduced draft resolution E/CN.4/2003/L.42, sponsored by Albania, Andorra, Angola, Argentina, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Costa Rica, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Moldova, Monaco, Mongolia, Morocco, the Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, the Republic of Korea, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay and Venezuela. Armenia, Australia, Canada, Colombia, Kenya, Mauritius, Peru, Senegal, South Africa, Timor-Leste and Ukraine subsequently joined the sponsors.

23. At the same meeting, the representative of Denmark orally revised paragraph 22 of draft resolution E/CN.4/2003/L.42.

24. Statements in connection with the draft resolution were made by the representatives of Algeria and Sierra Leone.

25. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

26. The draft resolution, as orally revised, was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/32.

**Human rights and forensic science**

27. At the same meeting, the representative of Denmark introduced draft resolution E/CN.4/2003/L.43, sponsored by Andorra, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Argentina, Armenia, Bulgaria, Croatia, Cyprus, Georgia and Mexico subsequently joined the sponsors.

28. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

29. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/33.

**Right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms**

30. At the same meeting, the representative of Chile introduced draft resolution E/CN.4/2003/L.44, sponsored by Argentina, Armenia, Brazil, Canada, Chile, Denmark, the Dominican Republic, Ecuador, France, Germany, Guatemala, Iceland, Japan, Mexico, the Netherlands, Nigeria, Norway, Peru, Portugal, Slovenia, Spain, the United Kingdom of Great Britain and Northern Ireland and Venezuela. Austria, Belgium, Burkina Faso, Cyprus, Finland, Georgia, Greece, Ireland, Italy, Luxembourg, the Republic of Korea, South Africa and Sweden subsequently joined the sponsors.

31. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

32. A statement in explanation of vote before the vote was made by the representative of the United States of America.

33. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/34.

**Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy**

34. At the same meeting, the representative of Cuba introduced draft resolution E/CN.4/2003/L.47, sponsored by Algeria, Angola, Botswana, Burundi, China, Congo, Cuba, the Democratic People's Republic of Korea, the Democratic Republic of the Congo, the Dominican Republic, Equatorial Guinea, Eritrea, Ethiopia, Haiti, Iraq, Kenya, Mauritania, Nigeria, Rwanda, Sierra Leone, South Africa, the Sudan, Swaziland, the Syrian Arab Republic, Togo, Uganda, Viet Nam, Yemen and Zimbabwe. Madagascar and Venezuela subsequently joined the sponsors.

35. A statement in explanation of vote before the vote was made by the representatives of Brazil, Guatemala and Ireland (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated country that is a member of the Commission - Poland - aligned itself with the statement).

36. At the request of the representative of Ireland, a recorded vote was taken on the draft resolution, which was adopted by 29 votes to 12, with 12 abstentions. The voting was as follows:

*In favour:* Algeria, Bahrain, Brazil, Burkina Faso, Cameroon, China, Cuba, Democratic Republic of the Congo, Gabon, Guatemala, India, Kenya, Libyan Arab Jamahiriya, Malaysia, Pakistan, Russian Federation, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Venezuela, Viet Nam, Zimbabwe.

*Against:* Australia, Austria, Belgium, Canada, France, Germany, Ireland, Poland, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Argentina, Armenia, Chile, Costa Rica, Croatia, Japan, Mexico, Paraguay, Peru, Republic of Korea, Saudi Arabia, Uruguay.

37. For the text of the resolution as adopted, see chapter II, section A, resolution 2003/35.

**Interdependence between democracy and human rights**

38. At the same meeting, Romania introduced draft resolution E/CN.4/2003/L.49, sponsored by Argentina, Armenia, Australia, Austria, Benin, Brazil, Bulgaria, Croatia, Cyprus, Denmark, Ecuador, Finland, France, Georgia, Hungary, India, Italy, Japan, Lithuania, Luxembourg, Malta, Mexico, Mongolia, the Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, the Republic of Korea, the Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Switzerland, Tunisia, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela. Albania, Armenia, Belgium, Cameroon, Canada, Chile, Colombia, Costa Rica, El Salvador, Estonia, Gabon, Germany, Greece, Guatemala, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Madagascar, Nepal, Nicaragua, Portugal, Senegal, Sweden, Thailand, Turkey and the United States of America subsequently joined the sponsors.

39. At the same meeting, the representative of Romania replaced the words “submit that compilation” with the word “report” in the last line of operative paragraph 14 of the draft resolution.

40. At the same meeting, the representative of Cuba introduced the amendments to draft resolution E/CN.4/2003/L.49 contained in document E/CN.4/2003/L.75.

41. Statements in connection with the draft resolution were made by the representatives of China, Cuba, the Libyan Arab Jamahiriya, Malaysia, Pakistan, Peru, Sierra Leone, the Syrian Arab Republic and Viet Nam.

42. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

43. A statement in explanation of vote before the vote was made by the representatives of Algeria, the Democratic Republic of the Congo, Ireland (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated country that is a member of the Commission - Poland - aligned itself with the statement), the Libyan Arab Jamahiriya, Pakistan, Peru and the Sudan.



44. At the request of the representative of Cuba, a separate vote was taken on paragraph 1 of the amendments contained in document E/CN.4/2003/L.75, which was rejected by 23 votes to 28, with 2 abstentions. The voting was as follows:

*In favour:* Algeria, Bahrain, Burkina Faso, Cameroon, China, Cuba, Democratic Republic of the Congo, Gabon, Kenya, Libyan Arab Jamahiriya, Malaysia, Pakistan, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Sudan, Swaziland, Syrian Arab Republic, Togo, Uganda, Viet Nam, Zimbabwe.

*Against:* Argentina, Armenia, Australia, Austria, Belgium, Brazil, Canada, Chile, Costa Rica, Croatia, France, Germany, Guatemala, India, Ireland, Japan, Mexico, Paraguay, Peru, Poland, Republic of Korea, Sweden, Thailand, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

*Abstaining:* Senegal, Sri Lanka.

45. The representative of Cuba withdrew the remaining two paragraphs in document E/CN.4/2003/L.75.

46. At the request of the representative of Cuba, a vote was taken on draft resolution E/CN.4/2003/L.49 as a whole, which was adopted by 36 votes to none, with 17 abstentions. The voting was as follows:

*In favour:* Argentina, Armenia, Australia, Austria, Bahrain, Belgium, Brazil, Cameroon, Canada, Chile, Costa Rica, Croatia, France, Germany, Guatemala, India, Ireland, Japan, Kenya, Mexico, Paraguay, Peru, Poland, Republic of Korea, Russian Federation, Senegal, South Africa, Sri Lanka, Sweden, Thailand, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Zimbabwe.

*Against:* None.

*Abstaining:* Algeria, Burkina Faso, China, Cuba, Democratic Republic of the Congo, Gabon, Libyan Arab Jamahiriya, Malaysia, Pakistan, Saudi Arabia, Sierra Leone, Sudan, Swaziland, Syrian Arab Republic, Togo, Uganda, Viet Nam.

47. For the text as adopted, see chapter II, section A, resolution 2003/36.

### **Human rights and terrorism**

48. At the 58th meeting, the representative of Algeria introduced draft resolution E/CN.4/2003/L.51, sponsored by Algeria, Burundi, Cameroon, China, Colombia, Cuba, Egypt, Georgia, Indonesia, Kenya, Madagascar, Nigeria, Oman, Pakistan, the Philippines, the Russian Federation, Saudi Arabia, Senegal, Sri Lanka, the Sudan, Swaziland, Togo, Tunisia, Turkey, Uganda, Viet Nam and Zimbabwe. Azerbaijan, Bangladesh, Ecuador, Ethiopia, India, Mauritania and Qatar subsequently joined the sponsors.

49. A statement in connection with the draft resolution was made by the representative of the Russian Federation.

50. Statements in explanation of vote before the vote were made by the representatives of Argentina, Chile, Ireland (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated country that is a member of the Commission - Poland - aligned itself with the statement), the Syrian Arab Republic and the United States of America.

51. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, which was adopted by 30 votes to 12, with 11 abstentions. The voting was as follows:

*In favour:* Algeria, Bahrain, Burkina Faso, Cameroon, China, Costa Rica, Cuba, Democratic Republic of the Congo, Gabon, India, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Pakistan, Peru, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Thailand, Togo, Uganda, Venezuela, Viet Nam, Zimbabwe.

*Against:* Australia, Austria, Belgium, Canada, Croatia, France, Germany, Ireland, Poland, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Argentina, Armenia, Brazil, Chile, Guatemala, Japan, Paraguay, Republic of Korea, Syrian Arab Republic, Ukraine, Uruguay.

52. In view of the adoption of L.51, the Commission took no action on draft decision 9 proposed by the Sub-Commission.

53. For the text of the resolution as adopted, see chapter II, section A, resolution 2003/37.

#### **Question of enforced or involuntary disappearances**

54. At the same meeting, the representative of France introduced draft resolution E/CN.4/2003/L.53/Rev.1, sponsored by Albania, Andorra, Argentina, Austria, Belgium, Brazil, Bulgaria, Cameroon, Cuba, Cyprus, the Czech Republic, Denmark, Ecuador, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Morocco, the Netherlands, Norway, Paraguay, Peru, Poland, Republic of Korea, Romania, Slovakia, Slovenia, Spain, Switzerland and the United Kingdom of Great Britain and Northern Ireland. Armenia, Burundi, Canada, Chile, Costa Rica, Croatia, Equatorial Guinea, Finland, Japan, Madagascar, Nicaragua, Nigeria, Portugal, the Republic of Moldova, Senegal, Serbia and Montenegro, South Africa, Sweden, Ukraine, Uruguay and Swaziland subsequently joined the sponsors.

55. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/38.

#### **Integrity of the judicial system**

56. At the same meeting, the representative of the Russian Federation introduced draft resolution E/CN.4/2003/L.54, sponsored by Cuba and the Russian Federation. Belarus subsequently joined the sponsors.

57. The representative of the Russian Federation orally revised the draft resolution by replacing the word “judiciary” with the words “judicial system” in the fifth preambular paragraph; by inserting a new operative paragraph after the existing operative paragraph 2 that would read as follows: “Reiterates that everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”; by replacing the words “the principle of equality of arms” with the following: “that the principles of equality before the courts and before the law are respected” in operative paragraph 6; and by deleting the words “and encourages him to continue this practice” in operative paragraph 11.

58. A statement in connection with the draft resolution was made by the representative of the United States of America.

59. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, as orally revised, which was adopted by 31 votes to 1, with 21 abstentions. The voting was as follows:

*In favour:* Algeria, Argentina, Armenia, Bahrain, Burkina Faso, China, Costa Rica, Cuba, Democratic Republic of the Congo, Gabon, Guatemala, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Pakistan, Paraguay, Peru, Russian Federation, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Viet Nam, Zimbabwe.

*Against:* United States of America.

*Abstaining:* Australia, Austria, Belgium, Brazil, Cameroon, Canada, Chile, Croatia, France, Germany, India, Ireland, Japan, Poland, Republic of Korea, Saudi Arabia, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

60. For the text as adopted, see chapter II, section A, resolution 2003/39.

#### **Hostage-taking**

61. At the same meeting, the representative of the Russian Federation introduced draft resolution E/CN.4/2003/L.55, sponsored by Algeria, Armenia, Belarus, China, Colombia, Cuba, Ecuador, Georgia, India, Kazakhstan, Nepal, Pakistan, the Philippines, the Russian Federation, Saudi Arabia, Sri Lanka, Turkey, Ukraine and Uruguay. Azerbaijan, Cyprus, Nicaragua, Spain and Venezuela subsequently joined the sponsors.

62. A statement in connection with the draft resolution was made by the representative of the United States of America.

63. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/40.

#### **The incompatibility between democracy and racism**

64. Also at the same meeting, the representative of Brazil introduced draft resolution E/CN.4/2003/L.56, sponsored by Albania, Angola, Argentina, Belarus, Brazil, Cameroon, Canada, Chile, Congo, Croatia, Cuba, the Dominican Republic, Ecuador, El Salvador, Ethiopia, France, Georgia, Guatemala, India, Italy, Mexico, Mozambique, Panama,

Paraguay, Poland, Romania, the Russian Federation, Spain, Sri Lanka, Tunisia, Turkey, Uruguay and Venezuela. Armenia, Bosnia and Herzegovina, Burundi, China, Colombia, Cyprus, Egypt, Equatorial Guinea, Ireland, Mauritius, Monaco, Morocco, Nicaragua, Peru, the Republic of Korea, Senegal, Thailand and Timor Leste subsequently joined the sponsors.

65. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/41.

**Judicial, summary or arbitrary executions**

66. At the same meeting, the representative of Sweden introduced draft resolution E/CN.4/2003/L.57/Rev.1, sponsored by Albania, Andorra, Austria, Belgium, Brazil, Cameroon, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Georgia, Germany, Guatemala, Hungary, Iceland, Latvia, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Panama, Poland, Portugal, the Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay. Armenia, Australia, Bosnia and Herzegovina, Bulgaria, Canada, Costa Rica, Ecuador, El Salvador, Estonia, Greece, Ireland, Italy, Liechtenstein, Madagascar, Nicaragua, Peru, South Africa, The former Yugoslav Republic of Macedonia, Timor-Leste and Venezuela subsequently joined the sponsors.

67. Statements in connection with the draft resolution were made by the representatives of India, Ireland (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated country that is a member of the Commission - Poland - aligned itself with the statement), Pakistan (on behalf of the Organization of the Islamic Conference) and Sweden.

68. At the 60th meeting, on 24 April, in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

69. At the same meeting, statements in explanation of vote before the vote were made by the representatives of Argentina, India, Pakistan and the United States of America.

70. At the request of the representative of Pakistan, a separate vote was taken on operative paragraph 5, which was retained by 27 votes to 10, with 15 abstentions. The voting was as follows:

*In favour:* Armenia, Australia, Austria, Belgium, Brazil, Burkina Faso, Canada, Chile, Costa Rica, Croatia, France, Germany, Guatemala, Ireland, Japan, Mexico, Peru, Poland, Republic of Korea, Russian Federation, Sweden, Thailand, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

*Against:* Algeria, Bahrain, Cameroon, Kenya, Libyan Arab Jamahiriya, Malaysia, Pakistan, Saudi Arabia, Sudan, Syrian Arab Republic.

*Abstaining:* Argentina, China, Democratic Republic of the Congo, Gabon, India, Paraguay, Senegal, Sierra Leone, South Africa, Sri Lanka, Swaziland, Togo, Uganda, Viet Nam, Zimbabwe.

71. Also at the same meeting, at the request of the representative of Pakistan, a recorded vote was taken on the draft resolution, as a whole. The draft resolution was adopted by 37 votes to none, with 16 abstentions. The voting was as follows:

*In favour:* Argentina, Armenia, Australia, Austria, Belgium, Brazil, Burkina Faso, Cameroon, Canada, Chile, Costa Rica, Croatia, Cuba, France, Germany, Guatemala, India, Ireland, Japan, Mexico, Paraguay, Peru, Poland, Republic of Korea, South Africa, Sri Lanka, Swaziland, Sweden, Thailand, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Zimbabwe.

*Against:* None.

*Abstaining:* Algeria, Bahrain, China, Democratic Republic of the Congo, Gabon, Kenya, Libyan Arab Jamahiriya, Malaysia, Pakistan, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, Sudan, Syrian Arab Republic, Viet Nam.

72. For the text of the resolution as adopted, see chapter II, section A, resolution 2003/53.

### **The right to freedom of opinion and expression**

73. At the 59th meeting, the representative of Canada introduced draft resolution E/CN.4/2003/L.59, sponsored by Albania, Andorra, Argentina, Austria, Belgium, Bulgaria, Cameroon, Canada, Chile, the Czech Republic, Denmark, the Dominican Republic, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Italy, Japan, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, Norway, Poland, Portugal, the Republic of Korea, Romania, San Marino, Slovakia, Slovenia, Spain, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Armenia, Australia, Bosnia and Herzegovina, Brazil, Colombia, Costa Rica, Croatia, Cyprus, Ecuador, El Salvador, Georgia, Guatemala, Israel, Latvia, Madagascar, Morocco, New Zealand, Nicaragua, Panama, Paraguay, Peru, the Republic of Korea, Senegal, Serbia and Montenegro, Sierra Leone, South Africa, Sweden, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, Uruguay and Venezuela subsequently joined the sponsors.

74. The representative of Canada orally revised operative paragraphs 2, 3 (c), 5, 7, 9 (a) and 17 (e), as reflected in a separate document circulated to the members of the Commission.

75. The representative of Cuba withdrew the amendment (E/CN.4/2003/L.73) to draft resolution E/CN.4/2003/L.59. The amendment consisted of the following:

“1. *Insert* a new preambular paragraph after the fifth preambular paragraph, reading as follows:

‘*Reaffirming* article 20 of the International Covenant on Civil and Political Rights, which proclaims that any propaganda for war shall be prohibited by law,’

2. *Insert* a new preambular paragraph after the sixth preambular paragraph, reading as follows:

‘*Recognizing* that universal, ubiquitous and affordable access to knowledge and to information and communication technologies are at the core of full enjoyment of freedom of opinion and expression by everyone and all peoples,’

3. In operative paragraph 2, line 3, *delete* and country-specific

4. At the end of operative subparagraph 3 (a), *insert* and peace activists, as well as people peacefully demonstrating against negative consequences of globalization

5. *Insert* two new operative paragraphs after operative paragraph 5, reading as follows:

‘*Stresses* that, in the face of current imbalances in flows of information at the global level, it is necessary to reinforce international cooperation and solidarity aimed at enabling in all countries, particularly developing countries, the development of their media and information and communication facilities as vital requirements for the full enjoyment of the right to freedom of opinion and expression by all;

‘*Affirms* that enjoyment of freedom of opinion and expression by all requires that media as well as information and communication technologies be people centred, with citizens and communities at their core, and be at the service of humankind and, in this regard, inter alia, encourages the establishment of a multilateral, intergovernmental, democratic and transparent governance of the Internet;’

6. At the end of operative subparagraph 9 (a) *insert* or peace activism  
7. *Insert* a new operative subparagraph 9 (e) reading as follows:

‘(e) Transfer of information and communication technologies and technical and financial assistance to developing countries with a view to promoting the participation of their people in a better-balanced flow of information and ideas;’

8. In operative paragraph 14, line 3, after HIV/AIDS, *insert* and raising awareness of the vital importance of universal access to medication of people infected with or affected by this pandemic;  
9. At the end of operative subparagraph 17 (d) *insert* as well as promoting universal access to communication technologies, knowledge and information in the public domain  
10. *Insert* a new subparagraph after operative subparagraph 17 (d) reading as follows:

‘To make recommendations on ways to enhance the participation of developing countries in the flow of information and ideas, with a view to promoting a new equilibrium and greater reciprocity in the international flow of information;’



11. In operative paragraph 19, lines 2-3, *replace* including the issue of security and protection for media professionals *with* including the issues of security, protection, independence, objectivity and social responsibility of media professionals, as well as restrictions imposed on the enjoyment of freedom of opinion and expression of peace activists and those peacefully demonstrating against the negative consequences of globalization”.

76. The draft resolution, as orally revised, was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/42.

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

77. At the same meeting, the representative of Hungary introduced draft resolution E/CN.4/2003/L.48, sponsored by Argentina, Austria, Belgium, Brazil, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, France, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Nepal, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sri Lanka, Switzerland, The former Yugoslav Republic of Macedonia, the United Kingdom of Great Britain and Northern Ireland and Uruguay. Armenia, Canada, Chile, Ecuador, El Salvador, Estonia, Ethiopia, Finland, Georgia, Israel, Italy, Madagascar, Nicaragua, Paraguay, the Republic of Korea, Senegal, Serbia and Montenegro, Sweden and Turkey subsequently joined the sponsors.

78. The observer for Hungary orally revised the beginning of operative paragraph 5 of the draft resolution by replacing “*Expresses its appreciation* for the work accomplished by the outgoing Special Rapporteur” with “*Appreciates* the efforts in the work accomplished by the outgoing Special Rapporteur”.

79. A statement in connection with the draft resolution was made by the representative of Ireland (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated country that is a member of the Commission - Poland - aligned itself with the statement).

80. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

81. A statement in explanation of vote before the vote was made by the representative of the United States of America.

82. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2003/43.

#### **Discrimination in the criminal justice system**

83. At the same meeting, the Commission had before it draft decision 1 recommended by the Sub-Commission on the Promotion and Protection of Human Rights for adoption by the Commission (see E/CN.4/2003/2-E/CN.4/Sub.2/2002/46, chap. I).

84. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications of the draft decision.

85. The draft decision was adopted without a vote. For the text as adopted, see chapter II, section B, decision 2003/108.

#### **Elimination of all forms of religious intolerance**

86. At the 58th meeting, Ireland introduced draft resolution E/CN.4/2003/L.58, sponsored by Afghanistan, Albania, Andorra, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Ecuador, El Salvador, Eritrea, Ethiopia, Finland, France, Georgia, Germany, Greece, Guatemala, Haiti, Hungary, Iceland, India, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Mozambique, the Netherlands, New Zealand, Norway, Panama, the Philippines, Poland, The former Yugoslav Republic of Macedonia, the Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Switzerland, the Republic of Korea, Tunisia, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Uruguay and Venezuela. Bosnia and Herzegovina, Costa Rica, Cuba, Estonia, Israel, Nicaragua, Peru, Portugal, Sweden and Timor Leste subsequently joined the sponsors. The United States of America withdrew from the sponsors.

87. At the same meeting, the representative of the United States of America orally amended draft resolution E/CN.4/2003/L.58, by inserting after the thirteenth preambular paragraph a new preambular paragraph reading as follows “*Recognizing with deep concern* the increase in

anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Jewish, Muslim and Arab communities”.

88. At the same meeting, the representative of India amended the amendment proposed by the representative of the United States of America by including “and other communities” in the last line.

89. The representative of Pakistan further amended the amendment proposed by the representative of the United States of America to read as follows: “*Recognizes with deep concern* the increase in religious intolerance directed against all religious communities”.

90. Statements in connection with the proposals were made by the representatives of Canada, Cuba, Guatemala, India, Ireland, the Libyan Arab Jamahiriya, Pakistan, the Syrian Arab Republic and the United States of America.

91. At the 60th meeting, on 24 April, the representative of Ireland requested that the Commission should take action on draft resolution E/CN.4/2003/L.58.

92. At the same meeting, the representative of the United States of America withdrew her delegation’s original amendment and proposed a new amendment reading as follows: “*Recognizing with deep concern* the overall rise in instances of intolerance directed against members of many religious communities in various parts of the world, including, inter alia, cases motivated by Islamophobia and anti-Semitism”.

93. A statement in connection with the new amendment was made by the representative of the Syrian Arab Republic.

94. At the request of the representative of the Syrian Arab Republic, a recorded vote was taken on the amendment proposed by the United States of America, which was retained by 25 votes to 5, with 22 abstentions. The voting was as follows:

*In favour:* Argentina, Armenia, Australia, Austria, Belgium, Canada, Chile, Croatia, France, Germany, Guatemala, India, Ireland, Japan, Mexico, Paraguay, Peru, Poland, Republic of Korea, Russian Federation, Sri Lanka, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Against:* Libyan Arab Jamahiriya, Sierra Leone, Syrian Arab Republic, Togo, Zimbabwe.

*Abstaining:* Algeria, Bahrain, Brazil, Burkina Faso, Cameroon, China, Costa Rica, Democratic Republic of the Congo, Gabon, Kenya, Malaysia, Pakistan, Saudi Arabia, Senegal, South Africa, Sudan, Swaziland, Thailand, Uganda, Uruguay, Venezuela, Viet Nam.

95. At the same meeting, the representative of the United States of America rejoined the sponsors. The representative of Sierra Leone withdrew from the sponsors.

96. At the request of the representative of the Syrian Arab Republic, a recorded vote was taken on the draft resolution, as amended, which was adopted by 51 votes to none, with 2 abstentions. The voting was as follows:

*In favour:* Algeria, Argentina, Armenia, Australia, Austria, Bahrain, Belgium, Brazil, Burkina Faso, Cameroon, Canada, Chile, China, Costa Rica, Croatia, Cuba, Democratic Republic of the Congo, France, Gabon, Germany, Guatemala, India, Ireland, Japan, Kenya, Malaysia, Mexico, Pakistan, Paraguay, Peru, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Thailand, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Zimbabwe.

*Against:* None.

*Abstaining:* Libyan Arab Jamahiriya, Syrian Arab Republic.

97. For the text as adopted, see chapter II, section A, resolution 2003/54.

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