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Agenda item 18

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

**Andorra*, Angola*, Argentina, Australia, Austria, Belgium*, Canada*, Croatia, Cyprus*, Denmark*, Equatorial Guinea, Finland*, France, Georgia*, Germany, Greece*, Hungary, Iceland*, Ireland, Italy, Liechtenstein*, Lithuania*, Luxembourg*, Monaco*, Netherlands, New Zealand*, Norway*, Poland*, Portugal*, Romania*, San Marino*, Slovakia*, Slovenia*, Spain*, Sweden, Switzerland*, Timor-Leste*, United Kingdom of Great Britain and Northern Ireland:
draft resolution**

2004/... Protection of United Nations personnel

The Commission on Human Rights,

Recalling its resolution 2002/81 of 26 April 2002,

Strongly condemning the acts of murder and various forms of physical violence, rape and sexual assault, abduction, hostage-taking, kidnapping, harassment, illegal arrest and detention, acts of destruction and looting of property, shooting at vehicles and aircraft, mine-laying, looting

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

of assets, physical and psychological threats and other hostile acts against United Nations and associated personnel and other personnel acting under the authority of United Nations operations, as well as personnel of international humanitarian organizations,

Guided by the relevant provisions on protection contained in the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies, the Convention on the Safety of United Nations and Associated Personnel, the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977 and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or Have Indiscriminate Effects, and its Protocols,

Guided also by the International Bill of Human Rights,

Welcoming the adoption by the Security Council of resolution 1502 (2003) of 26 August 2003 on the safety and security of humanitarian personnel and the United Nations and its associated personnel,

Taking note of the statements by the Presidents of the Security Council of 15 March 2002 and 15 December 2003 on the protection of civilians in armed conflicts (S/PRST/2002/6 and S/PRST/2003/27) and recalling the report of the Secretary-General on the protection of civilians in armed conflict (S/2001/331) and Council resolutions 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000,

Welcoming General Assembly resolution 58/122 of 17 December 2003 on the safety and security of humanitarian personnel and protection of United Nations personnel,

Welcoming also General Assembly resolution 58/82 of 9 December 2003 on the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel,

Welcoming the fact that the Convention on the Safety of United Nations and Associated Personnel, which entered into force on 15 January 1999, has been ratified or acceded to by seventy-one Member States as at the present date, and mindful of the need to promote its universality,

Welcoming the inclusion of attacks intentionally directed against personnel involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations as a war crime in the Rome Statute of the International Criminal Court, which entered into force on 1 July 2002, and noting the role that the Court can play in bringing to justice those responsible for serious violations of human rights and international humanitarian law, as a measure of preventing impunity,

Recalling that the primary responsibility under international law for the security and protection of United Nations and associated personnel lies with the Government hosting a United Nations operation conducted under the Charter or its agreements with the relevant organizations,

Urging all parties involved in armed conflicts to ensure the security and protection of all United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, in compliance with international humanitarian law, in particular their obligations under the Geneva Conventions of 12 August 1949 and the obligations applicable to them under the Additional Protocols thereto of 8 June 1977,

Emphasizing that there are existing prohibitions under international law against attacks knowingly and intentionally directed against personnel involved in a humanitarian assistance or peacekeeping mission undertaken in accordance with the Charter of the United Nations, which in situations of armed conflict constitute war crimes, and recalling the need for States to end impunity for such criminal acts,

Gravely concerned at the acts of violence in many parts of the world against humanitarian personnel and the United Nations and its associated personnel, in particular deliberate attacks, which are in violation of international humanitarian law, as well as other international law that may be applicable, such as the attack against the headquarters of the United Nations Assistance Mission in Iraq in Baghdad on 19 August 2003,

Expressing concern that the occurrence of attacks and threats against United Nations and associated personnel and other personnel is a factor that increasingly affects and restricts the ability of the Organization to provide assistance and protection to civilians in fulfilment of its mandate under the Charter,

Reaffirming the fundamental requirement that appropriate modalities for the safety and security of United Nations and associated personnel should be incorporated in all new and ongoing United Nations and field operations, as well as a culture of accountability for the safety of personnel at all levels throughout the United Nations system, and in this regard welcoming the ongoing efforts of the Secretary-General to further enhance the security management system of the United Nations,

Emphasizing the need to give further consideration to the safety and security of locally recruited United Nations and associated personnel and other personnel, who account for the majority of casualties,

1. *Welcomes* the reports of the Secretary-General to the General Assembly (A/58/344 and A/57/300);

2. *Calls upon* all States:

(a) To consider promptly becoming parties to and to respect fully their obligations under the relevant international instruments, in particular the Convention on the Safety of United Nations and Associated Personnel, especially those receiving United Nations operations on their territories;

(b) To consider as a matter of priority becoming parties to the Rome Statute of the International Criminal Court;

(c) To consider acceding to or ratifying the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations of 18 June 1998;

3. *Urges* all States:

(a) To take the necessary measures to ensure the full and effective implementation of the relevant provisions of human rights and refugee law relating to the safety and security of United Nations and associated personnel, as well as relevant principles and rules of international humanitarian law;

(b) To take stronger actions to ensure that any threat or act of violence committed against United Nations and associated personnel on their territory is investigated fully and to ensure that the perpetrators of such acts are brought to justice in accordance with international law and national law, and notes the need for States to end impunity for such acts;

(c) To facilitate and expedite, consistent with their national laws and regulations, the use of communications resources necessary to ensure the protection and safety of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, and emphasizes the importance of States' facilitating communications, inter alia through limiting and, whenever possible, lifting the restrictions placed on the use of communications equipment by United Nations and its associated personnel;

4. *Calls upon* all States and others concerned:

(a) To respect and ensure respect for the rights of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to take the necessary measures to ensure the safety and security of those personnel as well as the inviolability of United Nations premises which are essential to the continuation and successful implementation of United Nations operations;

(b) To ensure, in compliance with international humanitarian law, in particular their obligations under the Geneva Conventions of 12 August 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977, the security and protection of all United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(c) To provide adequate and prompt information concerning the arrest or detention of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(d) To grant the representatives of the competent international organization safe, prompt and unhindered access to such personnel, in compliance with international law, in particular international humanitarian law;

(e) To allow independent medical teams to investigate the health of detained United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to afford them the necessary medical assistance;

(f) To allow representatives of the competent international organization to attend hearings involving United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, provided that such attendance is consistent with domestic law;

(g) To ensure the prompt release of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who have been arrested or detained in violation of their immunity, in accordance with the relevant conventions and applicable international humanitarian law;

(h) To adopt and/or enforce appropriate domestic legislation and judicial and administrative measures to ensure that the perpetrators of unlawful acts against United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation are held accountable for their actions;

(i) To promote a climate of respect for the security of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation;

(j) To cooperate fully, in conformity with relevant provisions of international law, with United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and to ensure their safe and unhindered access in order to allow them to perform efficiently their task of assisting the affected civilian population, including refugees and internally displaced persons;

5. *Encourages* all States to contribute to the Trust Fund for the Security of United Nations Personnel;

6. *Takes note with appreciation* of the work being done by the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and

Associated Personnel, established pursuant to General Assembly resolution 56/89 of 12 December 2001, which will be reconvened in accordance with Assembly resolution 58/82 of 9 December 2003, with a mandate to expand the scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel, including by means of a legal instrument;

7. *Requests* the Secretary-General:

(a) To take the necessary measures to ensure full respect for the human rights, privileges and immunities of United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation and, when those human rights, privileges and immunities are violated, to ensure that such personnel are restored to their organization, and, where appropriate, to seek redress and compensation for the damage caused to them;

(b) To take further steps, within his mandate, to improve the safeguards for the security and safety of locally recruited United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation, and to continue to consider ways and means of strengthening their protection, bearing in mind that these personnel account for the majority of casualties as they are often most directly affected by insecurity and threats to their safety;

(c) To ensure the inclusion in headquarters and other mission agreements of the applicable principles and rules on protection contained in the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies and the Convention on the Safety of United Nations and Associated Personnel;

(d) To ensure that security matters are an integral part of the planning for existing and newly mandated United Nations operations and in this regard invites the United Nations and other humanitarian organizations to strengthen the analysis of threats to their safety and security in order to minimize security risks and to facilitate informed decisions on the maintenance of an effective presence in the field, inter alia to fulfil their humanitarian mandate;

(e) To take further measures to ensure that United Nations and associated personnel and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation are properly aware about the conditions under which they are called to operate, including relevant customs and traditions in the host country, and the standards they are required to respect, including those contained in relevant domestic and international law, and that adequate training in security, human rights and humanitarian law is provided so as to enhance their security and effectiveness in accomplishing their functions, and reaffirms the necessity for all other humanitarian organizations to provide their personnel with similar support.
