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GENERAL

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COMMISSION ON HUMAN RIGHTS  
Seventh session  
Item 12 of the provisional agenda

INTERNATIONAL COURT OF HUMAN RIGHTS

(Note by the Secretary-General)

I. DECISIONS OF THE COMMISSION ON HUMAN RIGHTS AT ITS SIXTH SESSION

1. At the 193rd meeting of its sixth session, the Commission rejected, by 8 votes to 5, with 2 abstentions, a draft resolution submitted by the representative of Australia and amended by the representative of France. The draft resolution as amended proposed that the Commission should take note of the proposal for an international court of human rights contained in the annexes to the reports of the second, third and fifth sessions of the Commission (E/600, E/800 and E/1371), and recommended to the Economic and Social Council that it should submit the proposals, official and unofficial, regarding the implementation of human rights by international tribunals (International Court of Justice, international court of human rights, regional courts of human rights, etc.) to the International Law Commission (E/CN.4/489 and E/CN.4/492).

2. The Commission agreed, however, that the question of an international court of human rights would be taken up again at its seventh session (E/CN.4/SR.201).

II. PREVIOUS DEVELOPMENTS ON THE QUESTION DURING THE PARIS PEACE CONFERENCE  
AND WITH THE UNITED NATIONS

3. It will be recalled that during the Paris Peace Conference in 1946 Australia advanced a proposal for an international court of human rights, which would be entrusted with jurisdiction in respect of the clauses relating to human rights in the Peace Treaties with Bulgaria, Finland, Hungary, Italy and Romania.

4. The Australian representative presented to the Commission on Human Rights at its first session a draft resolution for the establishment of an international court of human rights (E/CN.4/15). The Commission invited its drafting group to study the Australian proposal when considering the question of ensuring the

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observance of the rights to be included in the international bill of human rights (E/259, paragraph 10 (e)). The question was touched upon by the Drafting Committee of the Commission (E/CN.4/21, paragraph 19 and annex H).

5. The Working Group on the Question of Implementation appointed by the Commission at its second session discussed the question of the creation of an international court of human rights (E/600, annex C, part I, paragraphs 31-33 and 49-56). The representative of Australia made a statement at the time the report of the Working Group was discussed in the Commission which dealt with, inter alia, the same question (E/600, annex C, part II, paragraph 1). The Commission decided to take no decision on any specific principle or solution stated in the report, but to transmit the report to the governments of the various States and to the Economic and Social Council for their consideration and comment (E/600, paragraph 26).

6. At its third session the Commission decided (E/800, paragraph 15) to refer the Economic and Social Council to annex C of the report of its second session (E/600) and to various other proposals which had been made with respect to implementation. These proposals are listed in annex C of the report of the third session of the Commission (E/800) and include Australian draft proposals for an international court of human rights (E/CN.4/AC.1/27).

7. The Australian proposals for an international court of human rights are set out in part I of annex III of the report of the fifth session of the Commission (E/1371). The Questionnaire on Measures of Implementation (E/1371, annex III, part II) transmitted to Member States in accordance with the decision of the Commission at that session (E/1371, paragraph 23) included, in part IV, chapter 5, questions relating to an international court of human rights (cf. also paragraph 2 of the introduction to the questionnaire). The replies received from governments to these questions and other comments by governments on the subject are set out in document E/CN.4/366 and Corr.1, pages 73 to 78, and are summarized in paragraph 19 of the introduction. They also appear in documents E/CN.4/353/Add.10, page 13 and E/CN.4/353/Add.11, page 3.

### III. RELEVANT DEVELOPMENTS WITHIN REGIONAL ORGANIZATIONS

8. It will be recalled that articles 19 and 38-56 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe contain provisions for the establishment and functioning of the European Court

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of Human Rights. Reference is made in this connexion to a study of that Convention which the Secretary-General will circulate as document E/CN.4/524. It will be observed that as a consequence of articles 46 and 56 of the Convention no case can be brought before the Court until eight of the contracting parties have declared that they recognize as compulsory ipso facto and without special agreement the jurisdiction of the Court in all matters concerning the interpretation and application of the Convention.

9. Resolution XXXI of the Ninth International Conference of American States (Bogota Conference, 1948) recommended that the Inter-American Juridical Committee should prepare a draft statute providing for the creation and functioning of an Inter-American court to guarantee the rights of man. The Juridical Committee, however, in its report on this question to the Inter-American Council of Jurists, expressed its conclusions that the time had not yet arrived for drafting the proposed statute of the court (Inter-American Juridical Yearbook, 1949, pages 298-300). The Council of Jurists at its first session adopted a resolution on 13 June 1950 approving this opinion of the Juridical Committee and transmitting it to the Secretary-General of the Council of the Organization of American States with the recommendation that the Council should include the same subject in the agenda of the second session of the Council of Jurists (Anales de la Organizacion de los Estados Americanos, Vol. II, No. 3, 1950, page 293).

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