



## General Assembly

Distr.  
LIMITED

A/HRC/Sub.1/58/L.20  
21 August 2006

Original: ENGLISH

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HUMAN RIGHTS COUNCIL  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Fifty-eighth session  
Agenda item 3

### ADMINISTRATION OF JUSTICE, RULE OF LAW AND DEMOCRACY

**Mr. Alfredsson, Mr. Bíró, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Guissé,  
Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Mr. Pinheiro,  
Ms. Rakotoarisoa, Mr. Sorabjee, Ms. Warzazi and Mr. Yokota:  
draft resolution**

#### **2006/... Right to an effective remedy**

*The Sub-Commission on the Promotion and Protection of Human Rights,*

*Guided by the Charter of the United Nations and the Universal Declaration of  
Human Rights,*

*Recalling that the General Assembly in its resolution 60/251 of 3 April 2006 lay great  
emphasis on the issue of implementation by stating that the Human Rights Council shall  
“promote the full implementation of human rights obligations” undertaken by States,*

*Bearing in mind the relationship between the broader question of the implementation of  
human rights law and its particular manifestation in the right to an effective remedy,*

*Recognizing* the importance of the implementation in practice of the right to an effective remedy and the role such a right plays in preventing human rights violations,

*Considering* the discussions during its fifty-seventh and fifty-eighth sessions in which the scope and content of the right to an effective remedy was clarified,

*Recalling* the working paper submitted at its fifty-seventh session by Mohamed Habib Cherif on the right to an effective remedy in criminal proceedings (E/CN.4/Sub.2/2005/13), the working paper submitted at its fifty-seventh session by Françoise Hampson on the implementation in domestic law of the right to an effective remedy in civil matters against violations of human rights by State agents (E/CN.4/Sub.2/2005/15) and the conference room paper on the implementation in practice of the right to an effective remedy for human rights violations submitted by Françoise Hampson and Mohamed Habib Cherif at its fifty-eighth session (A/HRC/Sub.1/58/CRP.4),

1. *Endorses* the conclusions and recommendations contained in the working papers and the conference room paper;
2. *Decides* to appoint Mohamed Habib Cherif as Special Rapporteur with the task of preparing a comprehensive study on the implementation in practice of the right to an effective remedy for human rights violations based on his working paper, the working paper of Françoise Hampson and the conference room paper presented by both of them, as well as the comments received and the discussions that took place at the fifty-seventh and fifty-eighth sessions of the Sub-Commission, and requests the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-ninth session or to the first session of any future expert advice mechanism and a progress report and final report in the following years;
3. *Requests* the Secretary-General to provide the Special Rapporteur with all the assistance necessary to accomplish this task;
4. *Recommends* the following draft decision to the Human Rights Council for adoption:

“The Human Rights Council, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2006/... of ... August 2006, decides to

endorse the decision of the Sub-Commission to appoint Mohamed Habib Cherif as Special Rapporteur with the task of preparing a comprehensive study on the implementation in practice of the right to an effective remedy for human rights violations based on his working paper on the right to an effective remedy in criminal proceedings (E/CN.4/Sub.2/2005/13), the working paper of Françoise Hampson on the implementation in domestic law of the right to an effective remedy (E/CN.4/Sub.2/2005/15), and the conference room paper by both of them (A/HRC/Sub.1/58/CRP.4), as well as the comments received and the discussions that took place at the fifty-seventh and fifty-eighth sessions of the Sub-Commission, and requests the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-ninth session or to the first session of any future expert advice mechanism, a progress report and a final report in the following years. The Council also decides to endorse the request to the Secretary-General to provide the Special Rapporteur with all the assistance necessary to enable him to accomplish his task.”;

5. *Decides* that if, for whatever reason, Mr. Cherif’s appointment is not endorsed by the Human Rights Council, to request Mr. Cherif to prepare an expanded working paper on the implementation in practice of the right to an effective remedy for human rights violations to be submitted to the fifty-ninth session of the Sub-Commission or the first session of any future expert advice mechanism;

6. *Decides* to continue consideration of this issue at its fifty-ninth session under the same agenda item or recommends consideration of this issue during the first session of any future expert advice mechanism.

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