



# General Assembly

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## Human Rights Council

### Fifteenth session

Agenda item 3

### Promotion and protection of all human rights, civil political, economic, social and cultural rights, including the right to development

**Argentina, Austria\*, Bulgaria\*, Canada\*, Chile, Croatia\*, Cyprus\*, Czech Republic\*, Denmark\*, Ecuador, Estonia\*, Germany\*, Greece\*, Guatemala, Hungary, Italy\*, Latvia\*, Liechtenstein\*, Lithuania\*, Luxembourg\*, Malta\*, Mexico, Netherlands\*, Norway, Peru\*, Poland, Portugal\*, Romania\*, Slovenia\*, Sweden\*, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay: draft resolution**

### 15/... Arbitrary detention

*The Human Rights Council,*

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

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

*Recalling also* Commission on Human Rights resolutions 1991/42 of 5 March 1991 and 1997/50 of 15 April 1997, as well as Council resolutions 6/4 of 28 September 2007 and 10/9 of 26 March 2009,

*Recalling further* General Assembly resolution 60/251 of 15 March 2006 entitled "Human Rights Council",

*Recalling* resolution 5/1 entitled "Institution-building of the United Nations Human Rights Council" and resolution 5/2 entitled "Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council", of 18 June 2007, stressing that the mandate holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto, and urging all States to cooperate with and assist the special procedures in the performance of their tasks,

*Commemorating* the twentieth anniversary of the establishment of the Working Group on Arbitrary Detention, and taking that opportunity to raise awareness about the arbitrary deprivation of liberty,

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\* Non-Member State of the Human Rights Council.

1. *Stresses* the importance of the work of the Working Group on Arbitrary Detention;
2. *Takes note* of the latest report of the Working Group,<sup>1</sup> including the recommendations contained therein;
3. *Requests* the States 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* all States:
  - (a) To give due consideration to the recommendations of the Working Group;
  - (b) To take appropriate measures to ensure that their legislation, regulations and practices remain in conformity with relevant international standards and the applicable international legal instruments;
  - (c) To respect and promote the right of anyone arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power, and to be entitled to trial within a reasonable time or release;
  - (d) To respect and promote the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention and order his or her release if the detention is not lawful, in accordance with their international obligations;
  - (e) To ensure that the right referred to in subparagraph (d) above is equally respected in cases of administrative detention, including administrative detentions in relation to public security legislation;
  - (f) To respect and promote the right of anyone arrested or detained on a criminal charge to have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing;
  - (g) To ensure that the conditions of pretrial detention do not undermine the fairness of the trial;
5. *Also encourages* all States to cooperate with the Working Group, and to give serious consideration to responding favourably to its requests for visits so that it may carry out its mandate even more effectively;
6. *Notes with concern* that a persistent proportion of urgent appeals of the Working Group has been left unanswered, and urges the States 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. *Stresses* that separate replies should be provided by the States concerned for the transmission of an urgent appeal and for the transmission of the same case pursuant to the regular complaint procedure leading to the adoption of an opinion;
8. *Notes with deep concern* that the Working Group has received increasing information on reprisals suffered by individuals who were the subject of an urgent appeal or opinion or who applied a recommendation of the Working Group, and urges the States concerned to take appropriate measures to prevent such acts and to combat impunity by

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<sup>1</sup> A/HRC/13/30 and Add.1, 2 and 3.

investigating promptly and effectively all allegations of intimidation and reprisal in order to bring perpetrators to justice and to provide victims with appropriate remedies;

9. *Expresses its profound thanks* to the States that have extended their cooperation to the Working Group and responded to its requests for information, and invites all States concerned to demonstrate the same spirit of cooperation;

10. *Notes with satisfaction* 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 that have not yet been resolved;

11. *Decides* to extend the mandate of the Working Group for a further period of three years, in accordance with Commission on Human Rights resolutions 1991/42 and 1997/50 and with Council resolution 6/4;

12. *Requests* the Secretary-General to provide all necessary assistance to the Working Group, particularly with regard to the staffing and resources needed for the effective fulfilment of its mandate, especially in respect of field missions;

13. *Requests* the Office of the United Nations High Commissioner for Human Rights to organize in 2011, within existing resources, a two-day event to commemorate the twentieth anniversary of the establishment of the Working Group;

14. *Decides* to continue consideration of the question of arbitrary detention in conformity with its programme of work.

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