



# 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**

**Albania<sup>\*</sup>, Austria<sup>\*</sup>, Bosnia and Herzegovina<sup>\*</sup>, Brazil, Bulgaria<sup>\*</sup>, Canada<sup>\*</sup>, Chile, Costa Rica<sup>\*</sup>, Croatia<sup>\*</sup>, Cyprus<sup>\*</sup>, Czech Republic<sup>\*</sup>, Denmark<sup>\*</sup>, Germany<sup>\*</sup>, Greece<sup>\*</sup>, Guatemala, Hungary, Italy<sup>\*</sup>, Latvia<sup>\*</sup>, Lebanon<sup>\*</sup>, Lithuania<sup>\*</sup>, Luxembourg<sup>\*</sup>, Malta<sup>\*</sup>, Mexico, Netherlands<sup>\*</sup>, Norway, Panama<sup>\*</sup>, Paraguay<sup>\*</sup>, Peru<sup>\*</sup>, Poland, Portugal<sup>\*</sup>, Serbia<sup>\*</sup>, Slovakia, Slovenia<sup>\*</sup>, Spain, Sweden<sup>\*</sup>, Switzerland, the former Yugoslav Republic of Macedonia<sup>\*</sup>, United Kingdom of Great Britain and Northern Ireland, Uruguay: draft resolution**

### **15/... Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers**

*The Human Rights Council,*

*Guided by articles 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 4, 9, 14 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action,*

*Recalling the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors and the Bangalore Principles of Judicial Conduct,*

*Convinced that an independent and impartial judiciary, an independent legal profession, an objective and impartial prosecution able to perform its functions accordingly and the integrity of the judicial system are prerequisites for the protection of human rights and the application of the rule of law and for ensuring fair trials and that there is no discrimination in the administration of justice,*

*Recalling all its previous resolutions and decisions, as well as those of the Commission on Human Rights and the General Assembly, on the independence and impartiality of the judiciary and on the integrity of the judicial system,*

*Acknowledging the importance of the ability of the Special Rapporteur on the independence of judges and lawyers to cooperate closely, within the framework of his or*

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<sup>\*</sup> Non-Member State of the Human Rights Council.

her mandate, with the Office of the United Nations High Commissioner for Human Rights in the fields of advisory services and technical cooperation, in the effort to guarantee the independence of judges and lawyers,

*Recognizing* the importance of bar associations, professional associations of judges and non-governmental organizations in the defence of the principle of the independence of judges and lawyers,

*Recalling* that prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to due process and the smooth functioning of the criminal justice system,

*Emphasizing* that judges, prosecutors and lawyers play a critical role in safeguarding the non-derogable right of freedom from torture and other cruel, inhuman or degrading treatment or punishment,

*Recalling* that it is essential to ensure that prosecutors possess the professional qualifications required for the performance of their functions through improved methods of recruitment and legal and professional training, and through the provision of all necessary means for the proper performance of their role in combating criminality,

*Recalling also* that every State should provide an effective framework of remedies to redress human rights grievances or violations and that the administration of justice, including law enforcement and prosecutorial agencies and, especially, an independent judiciary and legal profession in full conformity with applicable standards contained in international human rights instruments, is essential to the full and non-discriminatory realization of human rights and indispensable to the processes of democracy and sustainable development,

*Noting with concern* the increasingly frequent attacks on the independence of judges, lawyers, prosecutors and court officials, including threats, intimidation and improper interference in the discharge of their professional functions,

*Reaffirming* Council resolution 8/6 of 18 June 2008 on the mandate of the Special Rapporteur on the independence of judges and lawyers,

1. *Encourages* States to take into consideration principles and individual and institutional parameters for effectively guaranteeing the independence of the judiciary and the free and independent functioning of lawyers and the legal profession, as contained in previous reports submitted by the Special Rapporteur on the independence of judges and lawyers to the Council<sup>1</sup> and the General Assembly;<sup>2</sup>

2. *Takes note with appreciation* of the latest report of the Special Rapporteur<sup>3</sup> on, inter alia, continuing education and training in international human rights as a crucial factor for the independence of judges and lawyers and for the objectivity and impartiality of prosecutors and their ability to perform their functions accordingly, and invites all Governments and competent national entities, such as bar associations, associations of magistrates and universities, to consider seriously the conclusions and recommendations made therein;

3. *Requests* the Special Rapporteur to carry out, within existing resources and with the support of the Office of the United Nations High Commissioner for Human Rights,

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<sup>1</sup> A/HRC/11/41.

<sup>2</sup> A/64/181.

<sup>3</sup> A/HRC/14/26.

a global thematic study to assess the human rights education and continuing training of judges, prosecutors, public defenders and lawyers, with recommendations for appropriate follow-up, and to present it to the Council at its seventeenth session;

4. *Also requests* the Special Rapporteur to explore the need for, and where appropriate, elaborate on, additional individual and institutional parameters to ensure and strengthen the objectivity and impartiality of prosecutors and prosecutorial services and their ability to perform their functions accordingly in protecting human rights and promoting the fair administration of justice;

5. *Encourages* States to promote diversity in the composition of the members of the judiciary and to ensure that the requirements for joining the judiciary and the selection process thereof are non-discriminatory;

6. *Also encourages* States to consider inviting competent national entities, such as bar associations, associations of magistrates and universities, to promote the education and training of judges, prosecutors, public defenders and lawyers, and to ensure that the latter are informed as appropriate, on a regular basis, of new developments in international human rights law;

7. *Calls upon* all States to respect and uphold the independence of judges and lawyers and the objectivity and impartiality of prosecutors, and their ability to perform their functions accordingly, and, to those ends, take effective legislative, law enforcement and other appropriate measures that will enable them to carry out their professional duties without improper interference, harassment, threats or intimidation of any kind;

8. *Calls upon* States to protect judges, lawyers and prosecutors and their families against violence, threats, retaliation, discrimination, interference and harassment as a result of discharging their functions;

9. *Urges* all Governments to cooperate with and assist the Special Rapporteur in the performance of her tasks, to provide all information and to respond to communications transmitted to them by the Special Rapporteur without undue delay;

10. *Invites* the Special Rapporteur to collaborate with relevant stakeholders within the United Nations system in the areas pertaining to her mandate, including, where appropriate, the recently established Rule of Law Coordination and Resource Group;

11. *Calls upon* Governments to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries, and urges States to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to and implementation of her recommendations to enable her to fulfil her mandate even more effectively;

12. *Encourages* the Special Rapporteur to continue to make concrete recommendations with regard to the protection and enhancement of the independence of judges, lawyers and court officials, as well as to the objectivity and impartiality of prosecutors and their ability to perform their functions, including through the provision of advisory services or technical assistance, in consultation with the Office of the High Commissioner, when they are requested by the State concerned;

13. *Also encourages* the Special Rapporteur to facilitate the provision of technical assistance, including through engagement with other relevant stakeholders;

14. *Encourages* Governments that face difficulties in guaranteeing the independence of judges and lawyers, the objectivity and impartiality of prosecutors and their ability to perform their functions accordingly, or that are determined to take measures to implement these principles further, to consult and to consider the services of the Special Rapporteur, for instance by inviting her to their country;

15. *Decides* to continue consideration of this issue in accordance with its annual programme of work.

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