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HUMAN RIGHTS COUNCIL
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IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”

Algeria (on behalf of the African Group): Draft resolution

5/... Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council

The Human Rights Council,

Guided by the aims and principles of the Charter of the United Nations and the Universal Declaration of Human Rights and recognizing the ensuing obligations inter alia of States to cooperate in promoting universal respect for human rights as enshrined therein,

Recalling the Vienna Declaration and Programme of Action adopted on 25 June 1993 by the World Conference on Human Rights,

Recalling also that in resolution 60/251 of 15 March 2006, entitled “Human Rights Council”, the General Assembly:

(a) Reaffirmed that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and that all human rights must be treated in a fair and equal manner on the same footing and with the same emphasis;

(b) Acknowledged that peace and security, development and human rights are the pillars of the United Nations system and that they are interlinked and mutually reinforcing;

(c) Decided that members elected to the Council shall uphold the highest standards in the promotion and protection of human rights and shall fully cooperate with the Council;

(d) Stressed the importance of “ensuring universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization”;

(e) Further recognized that the promotion and protection of human rights “should be based on the principles of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings”;

(f) Decided that “the work of the Council shall be guided by the principles of universality, impartiality, objectivity, and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development”;

(g) Also decided that “the methods of work of the Council shall be transparent, fair and impartial and shall enable genuine dialogue, be results-oriented, allow for subsequent follow-up discussions to recommendations and their implementation and also allow for substantive interaction with special procedures and mechanisms”;

Underlining the centrality of the notions of impartiality and objectivity, as well as the expertise of mandate-holders, within the context of special procedures, along with the need to give the required degree of attention to all human rights violations, wherever they may be taking place,

Bearing in mind that the efficiency of the system of special procedures should be reinforced through the consolidation of the status of mandate-holders and the adoption of principles and regulations taking the specificities of their mandate into consideration,

Considering that it is necessary to assist all stakeholders, including States, national human rights institutions, non-governmental organizations and individuals, to better understand and support the activities of mandate-holders,

Recalling articles 100, 104, 105 of the Charter of the United Nations, section 22 of article VI of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and paragraph 6 of General Assembly resolution 60/251,

Noting decision 1/102 of 30 June 2006, in which the Council decided to extend exceptionally for one year the mandates and mandate-holders of the special procedures of the Commission on Human Rights of the Sub-Commission for the Promotion and Protection of Human Rights as well as the procedure established pursuant to Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970,

Noting also decision 1/104 of 30 June 2006, in which the Council established the Open-ended Intergovernmental Working Group entrusted with the task of formulating recommendations on the issue of the review, and possibly the enhancement and rationalization, of all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights, in order to maintain a regime of special procedures in accordance with paragraph 6 of General Assembly resolution 60/251,

Noting further resolution 2/1 of 27 November 2006, in which the Council requested the Open-ended Intergovernmental Working Group to “draft a code of conduct regulating the work of the special procedures”,

Considering that this code of conduct is an integral part of the review, improvement and rationalization called for in General Assembly resolution 60/251 that, inter alia, seeks to enhance the cooperation between Governments and mandate-holders which is essential for the effective functioning of the system,

Considering also that such a code of conduct will strengthen the capacity of mandate-holders to exercise their functions whilst enhancing their moral authority and credibility and will require supportive action by other stakeholders, and in particular by States,

Considering further that one should distinguish between, on the one hand, the independence of mandate-holders, which is absolute in nature, and, on the other hand, their prerogatives, as circumscribed by their mandate, the mandate of the Human Rights Council, and the provisions of the Charter of the United Nations,

Mindful of the fact that it is desirable to spell out, complete and increase the visibility of the rules and principles governing the behaviour of mandate-holders,

Noting the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission that was adopted by the General Assembly in resolution 56/280 of 27 March 2002,

Noting also the draft Manual of the United Nations Human Rights Special Procedures adopted in 1999 by the sixth annual meeting of mandate-holders, as revised,

Taking note of the deliberations and proposals of the Open-ended Intergovernmental Working Group on Review of Mandates,

1. *Urges* all States to cooperate with, and assist, the special procedures in the performance of their tasks and to provide all information in a timely manner, as well as respond to communications transmitted to them by the special procedures without undue delay;

2. *Adopts* the Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council, the text of which is annexed to the present resolution and whose provisions should be disseminated by the Office of the United Nations High Commissioner for Human Rights, to the mandate-holders, to the Member States of the United Nations and to other concerned parties.

Annex

Draft Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council

Article 1 - Purpose of the Code of Conduct

The purpose of the present Code of Conduct is to enhance the effectiveness of the system of special procedures by defining the standards of ethical behaviour and professional conduct that special procedures mandate-holders of the Human Rights Council (hereinafter referred to as “mandate-holders”) shall observe whilst discharging their mandates.

Article 2 - Status of the Code of Conduct

1. The provisions of the present Code complement those of the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission (ST/SGB/2002/9) (hereinafter referred to as “the Regulations”);
2. The provisions of the draft manual of United Nations Human Rights Special Procedures should be in consonance with those of the present Code;
3. Mandate-holders shall be provided by the United Nations High Commissioner for Human Rights, along with the documentation pertaining to their mission, with a copy of the present Code of which they must acknowledge receipt.

Article 3 - General principles of conduct

Mandate-holders are independent United Nations experts. While discharging their mandate, they shall:

- (a) Act in an independent capacity, and exercise their functions in accordance with their mandate, through a professional, impartial assessment of facts based on internationally recognized human rights standards, and free from any kind of extraneous influence, incitement, pressure, threat or interference, either direct or indirect, on the part of any party, whether

stakeholder or not, for any reason whatsoever, the notion of independence being linked to the status of mandate-holders, and to their freedom to assess the human rights questions that they are called upon to examine under their mandate;

(b) Keep in mind the mandate of the Council which is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, through dialogue and cooperation as specified in General Assembly resolution 60/251 of 15 March 2006;

(c) Exercise their functions in accordance with their mandate and in compliance with the Regulations, as well as with the present Code;

(d) Focus exclusively on the implementation of their mandate, constantly keeping in mind the fundamental obligations of truthfulness, loyalty and independence pertaining to their mandate;

(e) Uphold the highest standards of efficiency, competence and integrity, meaning, in particular, though not exclusively, probity, impartiality, equity, honesty and good faith;

(f) Neither seek nor accept instructions from any Government, individual, governmental or non-governmental organization or pressure group whatsoever;

(g) Adopt a conduct that is consistent with their status at all times;

(h) Be aware of the importance of their duties and responsibilities, taking the particular nature of their mandate into consideration and behaving in such a way as to maintain and reinforce the trust they enjoy of all stakeholders;

(i) Refrain from using their office or knowledge gained from their functions for private gain, financial or otherwise, or for the gain and/or detriment of any family member, close associate, or third party;

(j) Not accept any honour, decoration, favour, gift or remuneration from any governmental or non-governmental source for activities carried out in pursuit of his/her mandate.

Article 4 - Status of mandate-holders

1. Mandate-holders exercise their functions on a personal basis, their responsibilities not being national but exclusively international.
2. When exercising their functions, the mandate-holders are entitled to privileges and immunities as provided for under relevant international instruments, including section 22 of article VI of the Convention on the Privileges and Immunities of the United Nations.
3. Without prejudice to these privileges and immunities, the mandate-holders shall carry out their mandate while fully respecting the national legislation and regulations of the country wherein they are exercising their mission. Where an issue arises in this regard, mandate-holders shall adhere strictly to the provisions of Regulation 1 (e) of the Regulations.

Article 5 - Solemn declaration

Prior to assuming their functions, mandate-holders shall make the following solemn declaration in writing:

“I solemnly declare that I shall perform my duties and exercise my functions from a completely impartial, loyal and conscientious standpoint, and truthfully, and that I shall discharge these functions and regulate my conduct in a manner totally in keeping with the terms of my mandate, the Charter of the United Nations, the interests of the United Nations, and with the objective of promoting and protecting human rights, without seeking or accepting any instruction from any other party whatsoever.”

Article 6 - Prerogatives

Without prejudice to prerogatives for which provision is made as part of their mandate, the mandate-holders shall:

- (a) Always seek to establish the facts, based on objective, reliable information emanating from relevant credible sources, that they have duly cross-checked to the best extent possible;

(b) Take into account in a comprehensive and timely manner, in particular information provided by the State concerned on situations relevant to their mandate;

(c) Evaluate all information in the light of internationally recognized human rights standards relevant to their mandate, and of international conventions to which the State concerned is a party;

(d) Be entitled to bring to the attention of the Council any suggestion likely to enhance the capacity of special procedures to fulfil their mandate.

Article 7 - Observance of the terms of the mandate

It is incumbent on the mandate-holders to exercise their functions in strict observance of their mandate and in particular to ensure that their recommendations do not exceed their mandate or the mandate of the Council itself.

Article 8 - Sources of information

In their information-gathering activities the mandate-holders shall:

(a) Be guided by the principles of discretion, transparency, impartiality, and even-handedness;

(b) Preserve the confidentiality of sources of testimonies if their divulgation could cause harm to individuals involved;

(c) Rely on objective and dependable facts based on evidentiary standards that are appropriate to the non-judicial character of the reports and conclusions they are called upon to draw up;

(d) Give representatives of the concerned State the opportunity of commenting on mandate-holders' assessment and of responding to the allegations made against this State, and annex the State's written summary responses to their reports.

Article 9 - Letters of allegation

With a view to achieving effectiveness and harmonization in the handling of letters of allegation by special procedures, mandate-holders shall assess their conformity with reference to the following criteria:

- (a) The communications should not be manifestly unfounded or politically motivated;
- (b) The communication should contain a factual description of the alleged violations of human rights;
- (c) The language in the communication should not be abusive;
- (d) The communication should be submitted by a person or a group of persons claiming to be victim of violations or by any person or group of persons, including non-governmental organizations, acting in good faith in accordance with principles of human rights, and free from politically motivated stands irrelevant or contrary to, the provisions of the Charter of the United Nations, and claiming to have direct or reliable knowledge of those violations substantiated by clear information;
- (e) The communication should not be exclusively based on reports disseminated by mass media.

Article 10 - Urgent appeals

Mandate-holders may resort to urgent appeals in cases where the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or ongoing damage of an extremely grave nature to victims that cannot be addressed in a timely manner by the procedure under article 9 of the present Code.

Article 11 - Field visits

Mandate-holders shall:

- (a) Ensure that their visit is conducted in compliance with the terms of reference of their mandate;

(b) Ensure that their visit is conducted with the consent, or at the invitation, of the State concerned;

(c) Prepare their visit in close collaboration with the Permanent Mission of the concerned State accredited to the United Nations Office at Geneva except if another authority is designated for this purpose by the concerned State;

(d) Finalize the official programme of their visits directly with the host country officials with administrative and logistical back-up from the local United Nations Agency and/or Representative of the High Commissioner for Human Rights who may also assist in arranging private meetings;

(e) Seek to establish a dialogue with the relevant government authorities and with all other stakeholders, the promotion of dialogue and cooperation to ensure the full effectiveness of special procedures being a shared obligation of the mandate-holders, the concerned State and the said stakeholders;

(f) Have access upon their own request, in consultation with the Office of the High Commissioner for Human Rights and after a common understanding between the host Government and the mandate-holder, to official security protection during their visit, without prejudice to the privacy and confidentiality that mandate-holders require to fulfil their mandate.

Article 12 - Private opinions and the public nature of the mandate

Mandate-holders shall:

(a) Bear in mind the need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations;

(b) In implementing their mandate, therefore, show restraint, moderation and discretion so as not to undermine the recognition of the independent nature of their mandate or the environment necessary to properly discharge the said mandate.

Article 13 - Recommendations and conclusions

Mandate-holders shall:

(a) While expressing their considered views, particularly in their public statements concerning allegations of human rights violations, also indicate fairly what responses were given by the concerned State;

(b) While reporting on a concerned State, ensure that their declarations on the human rights situation in the country are at all times compatible with their mandate and the integrity, independence and impartiality which their status requires, and which is likely to promote a constructive dialogue among stakeholders, as well as cooperation for the promotion and protection of human rights;

(c) Ensure that the concerned government authorities are the first recipients of their conclusions and recommendations concerning this State and are given adequate time to respond, and that likewise the Council is the first recipient of conclusions and recommendations addressed to this body.

Article 14 - Communication with Governments

Mandate-holders shall address all their communications to concerned Governments through diplomatic channels unless agreed otherwise between individual Governments and the Office of the High Commissioner for Human Rights.

Article 15 - Accountability to the Council

In the fulfilment of their mission, mandate-holders are accountable to the Council.
