



**Economic and Social  
Council**

Distr.  
LIMITED

E/CN.4/2005/L.46  
13 April 2005

Original: ENGLISH

---

COMMISSION ON HUMAN RIGHTS  
Sixty-first session  
Agenda item 11

**CIVIL AND POLITICAL RIGHTS**

**Albania\*, Andorra, Argentina, Armenia, Austria\*, Belgium\*, Bulgaria\*, Canada, Chile\*, Croatia\*, Cyprus\*, Czech Republic\*, Denmark\*, Ecuador, Estonia\*, Finland, France, Germany, Greece\*, Guatemala, Honduras, Hungary, India, Ireland, Israel\*, Italy, Japan, Latvia\*, Liechtenstein\*, Lithuania\*, Luxembourg\*, Malta\*, Mexico, Netherlands, Nigeria, Norway\*, Paraguay, Poland\*, Portugal\*, Romania, Serbia and Montenegro\*, Slovakia\*, Slovenia\*, Spain\*, Sri Lanka, Sweden\*, Switzerland\*, The former Yugoslav Republic of Macedonia\*, Turkey\*, United Kingdom of Great Britain and Northern Ireland and Uruguay\*: draft resolution**

**2005/... Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers**

*The Commission on Human Rights,*

*Guided by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular Part I, paragraph 27, and Part II, paragraphs 88, 90 and 95, thereof,*

---

\* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

*Convinced* that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

*Recalling* its resolution 1994/41 of 4 March 1994, in which it requested the Chairman of the Commission to appoint, for a period of three years, a special rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, and its resolution 2003/43 of 23 April 2003, in which it decided to extend the mandate of the Special Rapporteur for a further period of three years,

*Recalling also* its resolution 1995/36 of 3 March 1995, in which it endorsed the decision of the Special Rapporteur to use, beginning in 1995, the short title “Special Rapporteur on the independence of judges and lawyers”,

*Recalling further* General Assembly resolution 40/32 of 29 November 1985, as well as Assembly resolution 40/146 of 13 December 1985, in which the Assembly endorsed the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

*Recalling* General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

*Recalling also* the Bangalore Principles of Judicial Conduct (E/CN.4/2003/65, annex), adopted at the Round Table Meeting of Chief Justices held in The Hague on 25 and 26 November 2002 and bringing those principles to the attention of Member States, relevant United Nations organs and intergovernmental and non-governmental organizations for their consideration,

*Recalling further* the recommendations adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders regarding, among other things, the invitation addressed to Member States to ensure the independence and impartiality of the

judiciary and the proper functioning of prosecutorial and legal services in the field of penal justice and police affairs, taking into account the Basic Principles on the Independence of the Judiciary,

*Recalling* the Statement of Principles on the Independence of the Judiciary adopted in Beijing in August 1995 by the Sixth Conference of Chief Justices of Asia and the Pacific, and the Cairo Declaration, adopted in November 1995 by the Third Conference of Francophone Ministers of Justice,

*Acknowledging* the importance for the Special Rapporteur of being able to cooperate closely, in the framework of his mandate, with the Office of the United Nations High Commissioner for Human Rights in the field of advisory services and technical cooperation, which could contribute to guaranteeing the independence of judges and lawyers,

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

*Noting with concern* the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and aware of the close link between the weakening of safeguards for judges, lawyers and court officers and the frequency and gravity of violations of human rights,

1. *Takes note* of the report of the Special Rapporteur on the independence of judges and lawyers on the activities relating to his mandate (E/CN.4/2005/60 and Add.1-3);
2. *Notes* the Special Rapporteur's concern that the situation of the independence of judges and lawyers, which is the bedrock of the rule of law, remains delicate in many parts of the world;
3. *Also notes* the cooperative working methods that the Special Rapporteur has adopted to draw up his report and implement his mandate, as described in Commission resolution 1994/41;

4. *Welcomes* the numerous exchanges the Special Rapporteur has had with several intergovernmental and international organizations and United Nations bodies, and encourages him to continue along this path;

5. *Notes with appreciation* the determination of the Special Rapporteur to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary and the independence of the legal profession in conjunction with the publications and promotional activities of the Office of the High Commissioner;

6. *Invites* the High Commissioner to continue to provide technical assistance to train judges and lawyers;

7. *Calls upon* all Governments to respect and uphold the independence of judges and lawyers and, to that end, to take effective legislative, law enforcement and other appropriate measures that will enable them to carry out their professional duties without harassment or intimidation of any kind;

8. *Welcomes* the publication of *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers* in the context of the United Nations Decade for Human Rights Education;

9. *Urges* all Governments to assist the Special Rapporteur in the discharge of his mandate and to transmit to him all the information requested;

10. *Encourages* Governments that face difficulties in guaranteeing the independence of judges and lawyers, 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 him to their country if the Government concerned deems it necessary;

11. *Takes note* of the report submitted by Mr. Emmanuel Decaux to the Sub-Commission on the Promotion and Protection of Human Rights on the administration of justice through military tribunals (E/CN.4/Sub.2/2004/7), which includes draft principles governing the administration of justice through military tribunals;

12. *Requests* the Sub-Commission to submit to the Commission at its sixty-second session for its consideration an updated version of the draft principles;

13. *Requests* the Special Rapporteur to submit a report on the activities relating to his mandate to the Commission at its sixty-second session and decides to consider the question at that session, under the same agenda item;

14. *Requests* the Secretary-General, within the limits of the United Nations regular budget, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate.

-----