



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



**Use of mercenaries as a means of violating human rights
and impeding the exercise of the right of peoples to
self-determination**

Commission on Human Rights resolution 2004/5

The Commission on Human Rights,

Taking note of General Assembly resolution 58/162 of 22 December 2003 and recalling its own resolution 2003/2 of 14 April 2003,

Recalling all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling also the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia the Convention of the Organization of African Unity on the Elimination of Mercenarism in Africa, as well as the African Union,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States, self-determination of peoples, the non-use of force or threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that by virtue of the principle of self-determination, all peoples have the right to determine freely their political status and to pursue freely their economic, social and cultural development,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Alarmed and concerned about the danger which the activities of mercenaries constitute to peace and security in developing countries, particularly in Africa and in small States,

Deeply concerned about the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from mercenary international criminal activities,

Extremely alarmed and concerned about recent mercenary activities in Africa and the threat they pose to the integrity and respect of the constitutional order of these countries,

Convinced that, notwithstanding the way in which mercenaries or mercenary-related activities are used or the form they take to acquire some semblance of legitimacy, they are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Welcomes* the report of the Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (E/CN.4/2004/15), and commends Mr. Enrique Bernales Ballesteros for the valuable work and contributions he made in fulfilling his mandate for 16 years;

2. *Decides* to extend the mandate of the Special Rapporteur for a period of three years;

3. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

4. *Recognizes* that armed conflicts, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

5. *Urges once again* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries, and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right to self-determination, to overthrow the Government of any State, or dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right to self-determination of peoples;

6. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies' intervening in armed conflicts or actions to destabilize constitutional regimes;

7. *Welcomes once again* the entry into force of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

8. *Calls upon* all States that have not yet done so to consider taking the necessary action to sign or ratify the Convention;

9. *Welcomes* the cooperation extended by those countries that received a visit by the Special Rapporteur on mercenaries;

10. *Also welcomes* the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

11. *Invites* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur;

12. *Condemns* recent mercenary activities in Africa and the threat they pose to the integrity and respect of the constitutional order of these countries and the exercise of the right to self-determination of their peoples;

13. *Commends* the Governments of Africa on their collaboration in thwarting these illegal actions;

14. *Calls upon* the international community to cooperate with and assist the judicial prosecution of those accused of mercenary activities, in accordance with their obligations under international law, in transparent, open and fair trials;

15. *Requests* the new Special Rapporteur on mercenaries to circulate to and consult with States on the new proposal for a legal definition of a mercenary drafted by Mr. Enrique Bernales Ballesteros (see E/CN.4/2004/15, para. 47) and to report his/her findings to the Commission;

16. *Requests* the Office of the United Nations High Commissioner for Human Rights to convene a third meeting of experts on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, whose main objectives will be:

(a) To give further consideration to the proposed new legal definition of a mercenary as contained in paragraph 47 of the report of the Special Rapporteur;

(b) To make proposals on possible means of regulation and international supervision of the activities of private companies offering military assistance, consultancy and security services on the international market; and

(c) To study and evaluate recent activities of mercenaries in Africa;

17. *Also requests* the Office of the High Commissioner, as a matter of priority, to publicize the adverse effects of mercenary activities on the right of peoples to self-determination and, when requested and where necessary, to provide advisory services to States that are affected by these activities;

18. *Requests* the Special Rapporteur to continue taking into account in the discharge of his/her mandate that mercenary activities are continuing to occur in many parts of the world and are taking on new forms, manifestations and modalities and, in this regard, requests him/her to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the exercise of the right of peoples to self-determination;

19. *Urges* all States to cooperate fully with the Special Rapporteur in the fulfilment of his/her mandate;

20. *Requests* the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the necessary assistance and support for the fulfilment of his/her mandate, including through the promotion of cooperation between the Special Rapporteur and other components of the United Nations system that deal with countering mercenary-related activities;

21. *Requests* the new Special Rapporteur on mercenaries to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, his/her findings on the use of mercenaries to undermine the right to self-determination to the Commission at its sixty-first session;

22. *Decides* to consider at its sixty-first session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the same agenda item;

23. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, draft decision 2.]

44th meeting

8 April 2004

[Adopted by a recorded vote of 36 votes to 14,
with 3 abstentions. See chap. V. E/2004/23 – E/CN.4/2004/127]