



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



**2005/15. Issue of the administration of justice through
military tribunals**

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 2003/8 of 13 August 2003 and its decisions 2001/103 of 10 August 2001 and 2002/103 of 12 August 2002,

Mindful of articles 3, 5, 8, 9 and 10 of the Universal Declaration of Human Rights and articles 2, 4, 7, 10, 14, 15 and 26 of the International Covenant on Civil and Political Rights,

Mindful also of the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors,

Recalling Commission on Human Rights resolutions 2002/37 of 22 April 2002, 2003/39 of 23 April 2003 and 2004/32 of 19 April 2004, and taking note of resolutions 2005/30 of 19 April 2005 and 2005/33 of 19 April 2005, in which the Commission took note of the report of Emmanuel Decaux (E/CN.4/Sub.2/2004/7 and Corr.1 and Add.1),

Recalling also general comment No. 29 on derogations during a state of emergency (article 4 of the Covenant) adopted by the Human Rights Committee, and stressing that only a court of law may try and convict a person for a criminal offence,

Reaffirming that every person is entitled in full equality to a fair and public hearing by a competent, independent and impartial tribunal, in the determination of his or her rights and obligations and the justice of any criminal charge laid against him or her,

Reaffirming also that everyone has the right to be tried by ordinary courts or tribunals using established legal procedures and that tribunals that do not use procedures duly established under the law shall not be created to displace the jurisdiction belonging to the ordinary courts,

Convinced that the independence and impartiality of judges should be respected in all circumstances and that an independent and impartial judiciary is an essential prerequisite for protecting human rights and ensuring that there is no discrimination in the administration of justice,

Stressing that the composition, operation and procedures of military courts should comply with the international standards and rules providing for a fair and just trial,

Stressing also the need to develop principles and guidelines on the administration of justice through military tribunals,

1. *Welcomes* the report on the administration of justice through military tribunals (E/CN.4/Sub.2/2005/9) submitted by Mr. Decaux, including the updated draft principles governing the administration of justice through military tribunals contained therein;

2. *Thanks* Mr. Decaux for having undertaken extensive consultations with relevant bodies, regional intergovernmental organizations and non-governmental organizations in order to update the draft principles;

3. *Expresses its appreciation* to Mr. Decaux for having submitted, in time for the Sub-Commission's consideration at its fifty-seventh session, an updated version of the draft principles;

4. *Decides* to transmit the updated draft principles to the Commission on Human Rights for its consideration, together with the comments of the Sub-Commission during the present session;

5. *Requests* Mr. Decaux to prepare, without financial implications, a note, taking into account the comments and observations of the Sub-Commission referred to in the previous paragraph, in order to facilitate the examination by the Commission of the draft principles, and to revise the draft principles;

6. *Expresses the wish* that, under the auspices of the Office of the United Nations High Commissioner for Human Rights, a second seminar of military and other experts on the issue of the administration of justice through military tribunals be organized and encourages other such initiatives;

7. *Decides* to continue consideration of this question at its fifty-eighth session, under the same agenda item.

*19th meeting
10 August 2005*

[Adopted without a vote.
See E/CN.4/2006/2, E/CN.4/Sub.2/2005/44, chap. V.]