



Human Rights Council

Tenth Session

Resolution 10/9. Arbitrary detention

The Human Rights Council,

Reaffirming articles 3, 9, 10 and 29 and other relevant provisions of the Universal Declaration of Human Rights,

Recalling articles 9, 10, 11, and 14 to 22 of the International Covenant on Civil and Political Rights,

Recalling also Commission on Human Rights resolutions 1991/42 of 5 March 1991 and 1997/50 of 15 March 1997 and Council resolution 6/4 of 28 September 2007, in which the Council extended the mandate of the Working Group on Arbitrary Detention for a further period of three years,

1. *Stresses* the importance of the work of the Working Group on Arbitrary Detention and encourages it to pursue the fulfilment of its mandate, as set out in Council resolution 6/4;
2. *Takes note* of the report of the Working Group (A/HRC/10/21), including the recommendations contained therein;
3. *Requests* the States concerned to take account of the Working Group's views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps they have taken;
4. *Encourages* all States:
 - (a) To give due consideration to the recommendations of the Working Group;
 - (b) To take appropriate measures to ensure that their legislation, regulations and practices remain in conformity with the relevant international standards and the applicable international legal instruments;
 - (c) To respect and promote the right of anyone who is arrested or detained on a criminal charge to be brought promptly before a judge or other officer authorized by law to exercise judicial power and to be entitled to trial within a reasonable time or to release;
 - (d) To respect and promote the right of anyone who is deprived of his/her liberty by arrest or detention to be entitled to bring proceedings before a court, in order that the court may decide without delay on the lawfulness of his/her detention and order his/her release if the detention is not lawful, in accordance with their international obligations;

(e) To ensure that the right referred to in subparagraph (d) above is equally respected in cases of administrative detention, including administrative detentions in relation to public security legislation;

(f) To ensure that the conditions of pretrial detention do not undermine the fairness of the trial;

5. *Also encourages* all States concerned to ensure that any measures taken to combat terrorism comply with their obligations to ensure protection against arbitrary detention, bearing in mind relevant recommendations of the Working Group;

6. *Further encourages* all States to ensure that immigrants in an irregular situation and asylum-seekers are protected from arbitrary arrest and detention and to take action to prevent any form of arbitrary deprivation of liberty of immigrants and asylum-seekers, and notes with appreciation that some States have successfully implemented alternative measures to detention for undocumented migrants;

7. *Notes with concern* the comments made by the Working Group in its report (A/HRC/10/21) on the effects caused by corruption on the effective protection of human rights, including the right not to be subject to arbitrary detention;

8. *Encourages* all States to cooperate with the Working Group, and to give serious consideration to responding favourably to its requests for visits so that it may carry out its mandate even more effectively;

9. *Notes with concern* that a persistent proportion of urgent appeals of the Working Group has been left unanswered, and urges the States concerned to give the necessary attention to the urgent appeals addressed to them by the Working Group on a strictly humanitarian basis and without prejudging its possible final conclusions;

10. *Expresses* its profound thanks to the States that have extended their cooperation to the Working Group and responded to its requests for information, and invites all States concerned to demonstrate the same spirit of cooperation;

11. *Notes with satisfaction* that the Working Group has been informed of the release of some of the individuals whose situation has been brought to its attention, while deploring the many cases that have not yet been resolved;

12. *Requests* the Secretary-General to ensure that the Working Group receives all necessary assistance, particularly with regard to the staffing and resources needed for the effective fulfilment of its mandate, especially in respect of field missions;

13. *Decides* to continue consideration of the matter in conformity with its programme of work.

*42nd meeting
26 March 2009*

[Adopted without a vote.]
