

Repertory of Practice of United Nations Organs
Supplement No. 8

(Revised advance version, to be issued in volume IV of Supplement No. 8 (forthcoming) of the
Repertory of Practice of United Nations Organs)
Volume IV

ARTICLE 62 (3)

TEXT OF ARTICLE 62 (3)

It [the Economic and Social Council] may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

INTRODUCTORY NOTE

1. None of the decisions related indirectly to Article 62(3) gave rise to constitutional discussions requiring detailed treatment under an Analytical Summary of Practice. Consequently, this study consists only of a Summary of Practice.

I. SUMMARY OF PRACTICE

2. As in the past, the Economic and Social Council continued to take decisions with regard to the preparation of draft conventions for submission to the General Assembly. During the period under review, The Council submitted one instrument, namely, the Convention on the Rights of the Child, for adoption by the General Assembly. The Assembly submitted no new request for the preparation of a draft convention, nor did the Council take up the preparation of a draft convention on its own initiative. However, the Council continued to authorize the preparation of conventions taken up on the initiative of its subsidiary bodies, in particular the Commission on Human Rights, in the following instances:

- The draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication
- The draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts

In addition, it should be noted that the Commission on the Status of Women decided during the period to examine the feasibility of the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

3. With regard to the draft convention on the rights of the child,¹ work concluded during the period under review. The Economic and Social Council, by its resolution 1989/79, expressed its appreciation to

¹ See *vol. III, Supp. No. 5, vol. IV, Suppl. No. .6*, paras. 5 and 9, and *Vol. IV, Suppl. No. 7*, paras. 3 and 6.

the Commission on Human Rights for having concluded the elaboration of the draft convention and requested the Commission to submit the draft convention² and the report of the working group of the Commission on Human Rights³ through the Council, to the Assembly at its forty-fourth session, with a view to its adoption. By resolution 44/25, the Assembly adopted and opened for signature, ratification and accession the Convention on the Rights of the Child.

4. The Commission on Human Rights, at its forty-seventh session, in its decision 1991/107, decided to consider at its forty-eighth session the text, proposed by the Government of Costa Rica, of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁴ designed to establish a system of visits to places of detention with a view to the effective prevention of torture. Consequently, the Commission, having considered the question at its forty-eighth session, adopted resolution 1992/43,⁵ by which it decided to establish an open-ended inter-sessional working group in order to elaborate a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, using as a basis for its discussions the draft text proposed by the Government of Costa Rica, and to consider the implications of its adoption and the relationship between the draft optional protocol, regional instruments and the Committee against Torture. By 1992/6, the Economic and Social Council authorized the establishment of an open-ended working group in order to elaborate a draft optional protocol to the Convention against Torture using as a basis for its discussion the draft text proposed by Costa Rica in 1991. By its resolution 47/113, the General Assembly noted with appreciation the holding of the first session of the open-ended working group of the Commission on Human Rights elaborating a draft optional protocol to the Convention. The Commission continued to request⁶ and the Council re-authorized the open-ended working group of the Commission to continue its work throughout the remainder of the review period.⁷ In addition, the Council requested the Secretary-General to transmit the report of the working group to Governments, the specialized agencies, the chairmen of the human rights treaty bodies, the Special Rapporteur on the question of torture and the intergovernmental and non-governmental organizations concerned.⁸

5. At its fiftieth session, the Commission on Human Rights decided⁹ to establish an open-ended inter-sessional working group of the Commission responsible for elaborating, as a matter of priority and in close cooperation with the Special Rapporteur and the Committee on the Rights of the Child, guidelines for a possible draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication. The Commission requested the Secretary-General to invite Governments, intergovernmental organizations, the Special Rapporteur, the Committee on the Rights of the Child and non-governmental organizations to send comments on the guidelines for a possible draft optional protocol for consideration by the working group, and to circulate these contributions to Governments in advance of the meeting of the working group. The Commission, in addition, requested the working group to take into account available documentation and information including, *inter alia*, the report of the second International Workshop on National Institutions for the Promotion and Protection of Human Rights. By its resolution 1994/9, the Council, recalling Commission on Human Rights resolution 1994/90, authorized the establishment of an open-ended inter-sessional working group responsible for elaborating, in close cooperation with the Special Rapporteur on the sale of children, child prostitution and child pornography and with the Committee on the Rights of the Child, guidelines for a possible draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as

² E/CN.4/1989/29/Rev.1.

³ E/CN.4/1989/48.

⁴ E/CN.4/1991/66.

⁵ E/1992/22.

⁶ Commission on Human Rights resolution 1993/34 and 1994/40.

⁷ E S C resolution 1993/46 and decision 1994/250.

⁸ E S C resolution 1993/46.

⁹ E/1994/24, resolution 1994/90.

well as the basic measures needed for their prevention and eradication, which will would for two weeks before the fifty-first session of the Commission on Human Rights.

6. At its fourth session, the Committee on the Rights of the Child requested¹⁰ the Secretary-General to transmit to the Commission on Human Rights, at its fiftieth session, the preliminary draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts that the Committee had prepared at its third session. Commission on Human Rights resolution 1994/91 established an open-ended inter-sessional working group of the Commission on Human Rights to elaborate the draft optional protocol, using as one basis for its discussions the preliminary draft optional protocol submitted by the Committee. By its resolution 1994/10, the Council, authorized an open-ended inter-sessional working group of the Commission on Human Rights to meet for a period of two weeks prior to the fifty-first session of the Commission in order to elaborate, as a matter of priority, a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts. The Council requested the Secretary-General to transmit the report of the working group to Governments, the expert appointed to undertake a comprehensive study on the situation of children in armed conflicts, the Special Rapporteur on the sale of children, child prostitution and child pornography, and the intergovernmental and non-governmental organizations concerned.

7. It should be noted, also that, during the period under review, the Commission on the Status of Women, at its thirty eighth session in 1994, decided that it would examine the feasibility of introducing the right of petition through the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women. In paragraph 40 of the Vienna Declaration and Programme of Action adopted by the 1993 Vienna World Conference on Human Rights, the Conference had adopted the following recommendation:

“Treaty monitoring bodies should disseminate necessary information to enable women to make more effective use of existing implementation procedures in their pursuits of full and equal enjoyment of human rights and non-discrimination. New procedures should also be adopted to strengthen implementation of the commitment to women’s equality and the human rights of women. The Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women should quickly examine the possibility of introducing the right of petition through the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.”¹¹

Subsequently, the Committee on the Elimination of Discrimination against Women (CEDAW) discussed the preparation of a protocol to the Convention, requesting the Commission on the Status of Women to request that an expert group meeting be convened in 1994 to prepare a draft optional protocol to the Convention. The Commission, at its thirty eighth session, in 1994, had decided that it would examine the feasibility of introducing the right of petition through the preparation of such an optional protocol. Economic and Social Council resolution 1994/7 reflected the decision of the Commission.¹²

ANNEX I

List of draft conventions and protocols submitted to the General Assembly

1. Convention on the Rights of the Child

E S C resolution 1989/79; G A resolution 44/25

¹⁰ CRC/C/20.

¹¹ A/CONF.157/24 (Part I), chap. III.

¹² A/50/38, suggestion 7, p. 2.

