

Progress report on the topic “Expulsion of Aliens”

Statement of the Chairman of the Drafting Committee

23 July 2010

Mr. Chairman,

I will give you a short progress report on the topic “Expulsion of Aliens”.

It will be recalled that, in 2007, the Commission had referred draft articles 1 and 2 (proposed by the Special Rapporteur in his second report and subsequently revised in the light of the debate) as well as draft articles 3 to 7 (contained in the Special Rapporteur’s third report) to the Drafting Committee. In 2007 and 2008, the Drafting Committee provisionally adopted draft articles 1 and 2 dealing, respectively, with “Scope” and “Use of terms”, while recognizing the need to revisit certain questions at a later stage. In 2008, the Drafting Committee was also able to provisionally adopt draft article 3, on the “Right to expulsion”, while in 2009 it provisionally adopted the text of draft articles 5, 6 and 7 dealing, respectively, with refugees, stateless persons and the issue of collective expulsion. In contrast, so far the Drafting Committee has not been able to agree on a text for the proposed draft article 4 on “Non-expulsion by a State of its own nationals”.

Mr. Chairman,

I will now turn briefly to the work accomplished in the Drafting Committee at the present session.

This year the Drafting Committee held 8 meetings on 7, 12 and 14 May, and on 8, 9, 12 and 13 July. During these meetings, the Committee considered a set of draft articles on the protection of the human rights of persons subject to expulsion, which were referred to the Committee during the first part of the session in their revised version presented by the Special Rapporteur in document A/CN.4/617, in the light of last year

plenary debate. The work of the Drafting Committee on these draft articles was very productive. In this connection, I would like to thank the Special Rapporteur, Mr. Maurice Kamto, for his cooperation and efficient guidance to the Committee. I also wish to thank the members of the Drafting Committee for their active participation and contributions, and the Secretariat for its valuable assistance.

The Drafting Committee was able to provisionally adopt the following 8 draft articles:

- A draft article 8 on the “Obligation to respect the human dignity and human rights of persons subject to expulsion”, which is the result of the merging of draft articles 8 and 9 that were referred to the Committee;

- A draft article 9 on the “Obligation not to discriminate”, in which the list of prohibited grounds was expanded to as to also include ethnic origin and any other grounds impermissible under international law;

- A draft article 10 on the “Obligation to protect the right to life of persons subject to expulsion”;

- A draft article 11 on the “Prohibition of torture or cruel, inhuman or degrading treatment or punishment”;

- A draft article 12 on the “Obligation to respect the right to family life”;

- A draft article 13 on “Vulnerable persons”, which covers children, older persons, persons with disabilities, pregnant women and other vulnerable persons who are subject to expulsion;

- A draft article 14 on the “Obligation not to expel a person to a State where his or her life or freedom would be threatened”, which covers not only the threats based on discriminatory grounds as enumerated in draft article 9, but also the threat which results from the imposition or the death penalty, or the execution of a death penalty already imposed, in the State of destination”; and finally

- A draft article 15 on the “Obligation not to expel a person to a State where he or she may be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

Mr. Chairman,

Following the practice of the past three years in respect of this topic, the Drafting Committee decided that the draft articles provisionally worked out so far would remain, for the time being, in the Drafting Committee. It is anticipated that these draft articles will be presented to the Commission for adoption at the next session, together with the draft articles adopted during the previous sessions and any additional draft article that would be adopted next year. A detailed instruction of all the draft articles will be provided on that occasion.

This completes my progress report.

Thank you, Mr. Chairman.