

ARTICLE 62 (2)

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TEXT OF ARTICLE 62 (2)

It [the Economic and Social Council] may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

INTRODUCTORY NOTE

1. The structure of this study is similar to that of Article 62 (2) in previous Repertory studies of this Article, and, in the main, the material supplements that of the earlier studies. There was no new material requiring discussion under the former headings A to F in the Analytical Summary of Practice, but a new heading, II H, "The question of recommendations to non-member States", has been added.

I. GENERAL SURVEY

A. Recommendations

2. During the period covered by this Supplement, the recommendations of the Economic and Social Council concerning human rights and fundamental freedoms dealt with freedom of information, the status of women, the tenth anniversary of the Universal Declaration of Human Rights and advisory services in the field of human rights.
3. Though the Council continued to use such words as "recommends", "calls upon", "requests" and "invites" in its recommendations, without generally discussing these expressions, 1/ there were some instances where one expression was substituted for another. For example, in a draft resolution on equal pay for equal work, 2/ the word "requests", addressed to the International Labour Organisation, was replaced by the expression "invites". It was suggested that the latter word was more appropriate.
4. Recommendations were made to the General Assembly concerning the celebration of the tenth anniversary of the Universal Declaration of Human Rights. 3/ The Council also transmitted to the General Assembly, for its consideration, the draft Declaration of the Rights of the Child. 4/
5. Recommendations to States were addressed to States Members of the United Nations; 5/ also to States Members of the United Nations or members of the specialized agencies; 6/ to all Governments; 7/ and, in one instance, to States Members of the United Nations and of the specialized agencies and to States Parties to the Statute of

1/ See also this Supplement under Article 62 (1).

2/ E S C resolution 652 D (XXIV); E S C (XXIV), Suppl. No. 3 (E/2968), annex, draft resolution D; E/AC.7/SR.365 (mimeographed), p. 22; E/AC.7/SR.366 (mimeographed), p. 6.

3/ E S C resolutions 651 B (XXIV), 683 F (XXVI).

4/ E S C resolution 728 C (XXVIII).

5/ E S C resolution 651 (XXIV).

6/ E S C resolution 683 B (XXVI).

7/ E S C resolution 651 C (XXIV).

the International Court of Justice. 8/ Recommendations concerned the celebration of the tenth anniversary of the Universal Declaration of Human Rights, 9/ teaching its principles 10/ and providing information in the field of human rights, 11/ the political rights of women, 12/ the access of women to education, 13/ the status of women in private law, 14/ signing or acceding to the convention on the nationality of married women, 15/ equal pay for equal work, 16/ advisory services in the field of human rights, 17/ and discrimination in respect of employment and occupations. 18/

6. Recommendations were made to specialized agencies in general, on the celebration of the tenth anniversary of the Universal Declaration of Human Rights 19/ and concerning assistance to working women, including working mothers with family responsibilities; 20/ to the International Labour Organisation, relating to equal pay for equal work, 21/ to the World Health Organization concerning a study of ritual operations 22/ and to the International Telecommunication Union concerning international press telegram rates. 23/

7. Recommendations to non-governmental organizations concerned the status of women 24/ and the celebration of the tenth anniversary of the Universal Declaration of Human Rights. 25/

B. Studies and reports

8. With the exception noted in the subsequent paragraph, the Economic and Social Council followed its previous practices in initiating studies and reports. The subject matter during the period under review concerned advisory services in the field of human rights, 26/ the status of women, 27/ freedom of information, 28/ the Yearbook on Human Rights 29/ and the eradication of prejudice and discrimination. 30/ The requests for information, studies and reports were addressed to Member States, to the Commission on Human Rights, the Commission on the Status of Women and the Sub-Commission on

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- 8/ E S C resolution 652 F (XXIV).
9/ E S C resolutions 651 B (XXIV), 683 F (XXVI).
10/ E S C resolution 683 B (XXIV).
11/ E S C resolution 683 B (XXVI).
12/ For example, E S C resolution 652 B (XXIV).
13/ E S C resolution 652 C (XXIV).
14/ E S C resolutions 652 G (XXIV), 680 B (XXVI).
15/ E S C resolution 652 F (XXIV).
16/ E S C resolution 652 D (XXIV).
17/ E S C resolution 651 C (XXIV).
18/ E S C resolution 728 D (XXVIII).
19/ E S C resolution 651 B (XXIV).
20/ E S C resolution 680 C (XXVI), section I.
21/ E S C resolution 652 D (XXIV).
22/ E S C resolution 680 B (XXVI), section II.
23/ E S C resolution 719 (XXVII).
24/ E S C resolutions 652 B (XXIV), 680 B (XXVI), section I, 680 C (XXVI), section II.
25/ E S C resolutions 651 B (XXIV), 683 F (XXVI).
26/ E S C resolutions 640 C (XXIII), 651 C (XXIV), 684 (XXVI).
27/ E S C resolutions 652 D, E and H (XXIV), 722 C, D and E (XXVIII).
28/ E S C resolutions 643 (XXIII), 683 C (XXVI), 718 (XXVII), 732 (XXVIII).
29/ E S C resolution 683 D (XXVI).
30/ E S C resolution 683 E (XXVI).

Prevention of Discrimination and Protection of Minorities, to the Secretary-General, to various specialized agencies and to non-governmental organizations. 31/

9. The Council established a new practice in connexion with a request addressed to the Secretary-General, asking him to prepare a report on developments in the field of freedom of information; 32/ by a separate vote, 33/ it approved a paragraph in the report of its Social Committee 34/ which dealt with the method of its preparation. In this paragraph, the representative of the Secretary-General had informed the Social Committee that, if the Council agreed, the Secretary-General would entrust the task to a consultant and would transmit the latter's report to the Council.

C. Procedures for the handling of communications concerning human rights

10. At its twenty-eighth session, the Council adopted a resolution 35/ which amended its previous resolutions on handling communications concerning human rights 36/ and consolidated them into a single text. The substantive changes were intended to ensure that no misunderstanding concerning the powers and actions of the Commission on Human Rights should arise in the minds of those receiving replies to their communications. The Council asked the Secretary-General, when replying to communications concerning human rights, to inform the writers that their communications would be handled in accordance with this resolution and to indicate that the Commission had no power to take action in regard to any complaint concerning human rights. In the resolution, the Council also expressed approval, as it had in an earlier resolution, 37/ of the statement by the Commission on Human Rights that it recognized that it had no power to take any action in regard to any complaints concerning human rights.

II. ANALYTICAL SUMMARY OF PRACTICE

- **A.** The competence of the Economic and Social Council to make recommendations to non-member States
- **B.** The competence of the Economic and Social Council to make recommendations to the Trusteeship Council
- **C.** The power of the Economic and Social Council to conduct inquiries or investigations in matters relating to human rights
- **D.** The power of the Economic and Social Council to evaluate allegations of violations of human rights and to make recommendations thereon

31/ See, for example, E S C resolutions 640 (XXIII), 643 (XXIII), 651 (XXIV), 652 (XXIV), 680 (XXV), 684 (XXVI).

32/ E S C resolution 718 (XXVII), section II.

33/ E S C (XXVII), Plen., 1066th mtg., para. 18.

34/ E S C (XXVII), Annexes, a.i. 9, E/3240, para. 5.

35/ E S C resolution 728 F (XXVIII).

36/ E S C resolutions 75 (V), 192 A (VIII), 275 B (X), 454 (XIV); see also Repertory, vol. III, under Article 62 (2), paras. 21 and 65.

37/ E S C resolution 75 (V).

****E. Questions relating to the procedure for dealing with communications concerning human rights**

****F. Questions relating to the procedure for dealing with allegations regarding infringements of trade union rights**

G. Human rights and domestic jurisdiction 38/

11. In the course of the consideration of the question of Algeria by the General Assembly at its eleventh session, it was observed, in opposition to the claim of domestic jurisdiction, that if the Economic and Social Council, under Article 62 (2), could make recommendations on promoting respect for, and observance of, human rights, it was obvious that the General Assembly must possess the same right. 39/

H. The question of recommendations to non-member States 40/

12. The question of addressing non-member States arose in the Social Committee during the twenty-fourth session of the Economic and Social Council, in connexion with the consideration of a draft resolution proposed by the Commission on Human Rights, 41/ relating to the observance of the tenth anniversary of the adoption of the Universal Declaration of Human Rights. This draft contained recommendations addressed to "all States". An amendment was proposed 42/ and subsequently adopted, 43/ by which the words "all States" were replaced with "all States Members of the United Nations or members of the specialized agencies".

13. During the discussion, 44/ it was argued in support of this amendment that, to avoid certain legal difficulties, the distinction between States within the Organization and States outside it, should be maintained; in the particular case, relating to the observance of the Universal Declaration of Human Rights, the expression in the proposed amendment should be used. It was also stated that in some cases it was necessary for the Secretary-General to interpret decisions if they were not sufficiently explicit with regard to contacts he was asked to make. Those opposing the amendment held that the expression "all States" was consistent with General Assembly resolution 423 C (V), in which "all States and interested organizations" were invited to adopt 10 December of each year as Human Rights Day.

14. When the Social Committee of the Council 45/ sought the views of the Secretariat, it was informed of the Secretary-General's position, which was that, within the limits of instructions from organs of the United Nations, such as the most frequently employed, "States Members of the United Nations or of the specialized agencies", he was entitled to communicate with States which were not Members of the United Nations or members of the specialized agencies and even with entities other than States. In the absence of specific listings of States by political organs of the United Nations, showing to whom a resolution should be transmitted, the Secretary-General would have to take decisions which might not be acceptable to all Members of the United Nations. The formula "all States" contained in the draft resolution left open the question as to which States were recognized as such by the international community at a given moment.

38/ For a comprehensive treatment of the question of domestic jurisdiction, see this Supplement, under Article 2 (7).

39/ G A (XI), 1st Com., 842nd mtg., paras. 51 and 53.

40/ See the Repertory, vol. III, under Article 62 (2), paras. 24-28.

41/ E S C (XXIV), Suppl. No. 4 (E/2970/Rev.1), annex I.

42/ E/AC.7/L.285 (mimeographed).

43/ The amended draft was adopted by the Council as resolution 651 B (XXIV).

44/ E/AC.7/SR.361 (mimeographed).

45/ E/AC.7/SR.361 (mimeographed).

