

EU Presidency Intervention: The Human Rights Council: Mandate and Function

Statement made by the United Kingdom Mission of Great Britain and Northern Ireland on behalf of the European Union, 19 October 2005

ELEMENTS FOR DISCUSSION

I have the honour to speak on behalf of the European Union and Iceland, which has aligned itself with this statement

General

- Our aim is to produce a Human Rights Council which is an effective and efficient body, dealing with the full range of human rights issues. We need a mandate which does justice to this task and builds on the work of the Commission on Human Rights
- So in order to represent a strengthening of the UN human rights system, the Council should improve the level of promotion and protection of human rights. It should have stronger capacities and appropriate tools to be effective and operational.
- Paragraphs 158 and 159 of the Summit outcome document are succinct but clear in what the Council's main roles will be.

- promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner.

- address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon.

- mainstreaming of human rights within the United Nations system.
- These agreed elements set the framework for the detailed mandate of the Council. The headings provided by you, co-chairs, are also useful in stimulating discussion on other issues related to the mandate/functions of the Chair.
- All of the subjects today are important ones in achieving a truly effective Council. But the EU considers that not all of them need to be agreed straight away. In the interests of achieving agreement in principle to the effective, forward looking Council that we all want to see, the EU believes that some of the finer details of the mandate could be left until after its establishment.

Thematic Forum

- The EU agrees with the view of the High Commissioner for Human Rights that the time has come to move the focus more attention on the implementation of human rights. It therefore considers that this must be the focus of the Council. But, of course, it also has a key role to play in the examination and development of the principles of human rights, through elaborating our understanding and interpretation of thematic human rights issues in the widest sense. This is an area where the CHR has done very good work.
- The many thematic resolutions presented at the Commission on Human Rights are testament to the way in which it has contributed to advancing human rights

standards over the years. Continuing this good work will be a vital element of the new Council's work.

Development of Norms

- Development of norms is another issue on your list of functions of the Council, Co-Chairs. Again, the Commission and its mechanisms have played a vital role in developing thinking on certain international standards and norms. A recent example of this is the completion of a Draft Convention on Enforced Disappearances. The ongoing work of the Ad Hoc Committee on the Rights of Persons with Disabilities is a clear demonstration of how there is still work to do in the development of human rights norms. So we welcome the potential role envisaged for the Human Rights Council in this area – while of course recognising that it is for the General Assembly to adopt universal norms.

Situations of Human Rights

- As I said last week, the Council, if it is to be a meaningful body, must also be able to look at particular situations where human rights are being violated, and to look at them in real time. This is of course foreshadowed in the outcome document which stipulates that the Council should be able to “address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon”. The European Union does not see this as a process of condemnation or finger pointing. Instead, it sees it as a process where the Council and international community can work together to offer assistance to the country concerned, and, where appropriate, to make recommendations to the country or to other UN bodies to help all countries with the steps they need to take meet their human rights obligations.
- Without this translation of its work on the theoretical principles of human rights into practical action to help states protect and promote the rights of their citizens, the Council will not be a relevant body within the UN system. And it would let down all those people around the world who will look to it to provide guidance and assistance to all countries to achieve the highest standards of human rights protection.
- This is in no way confrontational or contrary to the spirit of our cooperative endeavour – in fact quite the opposite. This is about helping states, for example through the provision of technical assistance, in achieving the standards we have all set ourselves. And already the vast majority of us work cooperatively with each other to achieve these goals, for example with the Treaty Bodies or with the Office of the High Commissioner for Human Rights in a genuine dialogue on how to improve human rights standards. All EU Members States have declared publicly their willingness on a standing basis to agree to requests for visits by Special Procedures without conditions.. This is not always comfortable – nobody's human rights record is perfect. But we are open to dialogue, willing to cooperate and ready to improve

Cooperation and Technical Assistance

- This openness is necessary in order to prepare a constructive dialogue which can lead to targeted and effective technical assistance, where it is needed. The welcome promise to double the regular budget funding of OHCHR means that it will be in a much better position to provide assistance to states that ask for it.

- Technical Assistance on human rights is and will remain primarily a matter for bilateral contacts between the Office of the High Commissioner and the state concerned. But the EU welcomes the notion that the Human Rights Council might involve itself in discussions on types of cooperation and technical assistance that can be provided on individual issues.

Universal Periodic Review

- The European Union is interested in the notion of universal review and recognises that a number of questions about how it might work persist. We believe such a mechanism could be a way to address fears that the Council could be a forum for selectivity, partiality or double standards. Universal review could ensure that all countries are treated fairly and treated equally, by the universal application of standards applied on all human rights to all countries. Review of Council members in particular would lend them legitimacy in their work on the Council.
- The EU believes that a mechanism such as this could be useful in addressing charges of selectivity often applied to the Commission. But we believe the details might be left until a future date. We can reach agreement at this stage that such a process will be applied. The order, method, and frequency of review are not issues that would need to be agreed now.

Assumption and Review of the CHR mandates

- It will be vital for all the work currently in hand by CHR to be continued until completed as envisaged. The EU suggests that one way of doing this might be to include a clause in any resolution transferring responsibility for CHR's work to the Council. At an appropriate point the Council could undertake a review to decide what elements it should continue to use.
- Elements that must be included in the transfer of mandates is the continuation of the continuation of the mandates of Special Procedures, pending possible review by the Council, as well as the continuation of the contribution of NGOs according to existing practices in CHR.
- The EU is committed to seeing the Human Rights Council agreed and established according to the timetable of the Summit and preferably sooner, believing it to be an important instrument to further the application of human rights universally.