

INFORMAL MEETING OF THE GENERAL
ASSEMBLY PLENARY

FOLLOW-UP TO THE WORLD SUMMIT

**THE HUMAN RIGHTS COUNCIL:
WORKING METHODS, RULES OF PROCEDURE,
TRANSITION**

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KINGDOM MISSION TO UN

ON BEHALF OF THE EUROPEAN UNION

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THE HUMAN RIGHTS COUNCIL: Working Methods, Rules of Procedure, Transition

Co-Chairs, I have the honour to speak on behalf of the European Union.

Thank you for convening this the last of our general consultation meetings to discuss the issues relating to the establishment of the Human Rights Council. Let me start by saying that the European Union believe that much of the detail relating to the issues before us today, although important to ensure the Human Rights Council runs smoothly, can and should be decided at a later stage. If we are to deliver on the commitments of our leaders and the timetable set by the President of the General Assembly, we should concentrate our efforts on the main issues necessary for the early establishment of the Council, such as mandate, size, status and composition.

Working Methods

How exactly the Human Rights Council works will depend largely on the frequency of its meetings. I believe there is a growing consensus for a Council which will be able to meet regularly throughout the year to address systematically the implementation of all human rights, including through thematic discussions, and to consider urgent or continuing, gross or systematic violations of human rights in real time. This standing nature of the Human Rights Council is a fundamental part of the EU's position. This alone would facilitate a more business-like and cooperative atmosphere when discussing human rights issues than has been the case at the Commission on Human Rights.

The General Assembly, in the resolution we are aiming to have adopted by the end of the year, will need to set the parameters of what this means in practice in order to give the Council the necessary framework for the operation of the Council. The European Union believes that meetings should not be too widely spread so that the Council cannot consider pressing issues as necessary.

This might mean regular meetings at set periods throughout the year, say one week per month or two weeks every two months. An alternative might be multiple sessions of longer duration, such as three or four sessions per year of two weeks.

Whatever solution is chosen, the European Union is firmly of the view that there should also be the possibility to call sessions in between these regular sessions on pressing human rights matters and situations. The procedure for calling such meetings should not be too rigid, bureaucratic or time-consuming. This would restrict the Council's ability to meet as requested. Meetings of this sort might be convened by the Chair, the Bureau, the High Commissioner for Human Rights or the Secretary-General. They might also be called by members of the Council, and the EU believes that this should be less difficult than the current emergency session procedures for CHR.

It is essential that the decisions of the Human Rights Council have a freestanding authority. The Council should be able to address recommendations both to countries and to UN bodies.

The regular multiple sessions of the Council each year should be organised to allow for one high level segment. And in addition to their regular participation, including in the high level segment, dedicated sessions might be organised for dialogue with the special procedures, NGOs, civil society and national human rights institutions.

The seat of the Council should be Geneva, to allow for the continued close cooperation with OHCHR. But consideration will also have to be given to how the Human Rights Council is to fulfil its mandate to contribute to the mainstreaming of human rights, in follow-up to the Outcome Document commitment.

Agenda

The European Union believes that the Council might maintain a simple open agenda leaving it free to consider any issues it deems appropriate. Alternatively, it could have set elements to the agenda which are taken up at various dedicated sessions with the Council always able to deal with urgent situations. It is important to set the agenda in a predictable and logical manner that allows full and effective participation of all relevant actors, in particular NGOs, civil society, national human rights institutions and observer states.

In carrying out its work of promoting and protecting human rights more effectively, the Human Rights Council might dispense with some standard resolutions in the form currently considered by CHR and 3rd Committee, instead concentrating on debates and reports, for example on the implementation of human rights or pressing situations

Resolutions or Decisions will be necessary, however, to adopt certain recommendations, for example on Special Procedure mandates. The EU envisages also decisions or recommendations resulting from Council consideration of certain thematic issues or pressing situations. If the Council is to be effective in making swift interventions to end or even prevent gross or systematic human rights violations, it must have the ability to direct these decisions or recommendations immediately to the country concerned, the UN system and other UN bodies and not have to await their endorsement by the General Assembly.

There have been suggestions for the Human Rights Council to adopt a universal periodic review mechanism. If it does so, the EU believes that candidates or new members of the Council might be the first to be reviewed under this process, which should not duplicate the work of the Treaty Bodies. But it also believes that the conduct of any such mechanism and the consideration of the dossiers prepared should not overburden the Council.

Since human rights situations will not always need to be considered under the mechanism for “pressing issues”, the Council might have an annual session devoted to “review of situations of continuing concern”. This should have various possible follow-up mechanisms available, including support and assistance to OHCHR to provide technical assistance to countries concerned.

Finally on the agenda, the Council could decide to divide some thematic issues in sub-items to be addressed throughout the year in order to improve its approach to thematic issues.

Rules of Procedure

The Rules of Procedure used will depend on the final status of the Council. If it is a principal organ, new rules of procedure will have to be written. If the Council is, however, a subsidiary body of the General Assembly, the EU assumes that the default will be to adopt the rules of procedure of the General Assembly, at least as a basis. If this is the case, however, specific dedicated rules will have to be adopted for the Council, for example, rules:

- to allow for the participation of NGOs and non-members according to the rules and practices of CHR,
- for convening sessions
- for the relationship with other bodies
- to allow a sufficient degree of autonomy with regards its parent body.

Rule 161 of the General Assembly Rules of Procedure allows for such flexibility.

Relationship between the Human Rights Council and the Third Committee

Given the universal nature of the General Assembly – in both membership and scope, it is clear that both the GA and the Human Rights Council will continue to play a role in the promotion and protection of human rights. The EU believes that the key is that there should be a consistent approach to human rights issues without unnecessary duplication. In order to enable maximum coherence, the Human Rights Council should prepare an annual report on its work for the General Assembly.

Both bodies could continue developing human rights standards through the development of new international instruments, as they do now. The Human Rights Council would, however, have to recommend drafts to the General Assembly, as the UN’s universal body, for adoption.

But the Human Rights Council, with its standing nature, should lead on consideration of country situations and reviews of implementation. This would not preclude the General Assembly, however, from also taking up issues on the Council’s agenda.

When considering the nature of the relationship between the Human Rights Council and the 3rd Committee/General Assembly, the EU underlines that “subsidiary” is not the same

as “subordinate”. The General Assembly will elect members of the Council, receive an annual report and endorse decisions setting new standards or with budget implications on all issues. But the European Union considers it essential that the Council be free to set its own agenda. Its decisions must have freestanding authority. And it must have operational autonomy, able, for example, to address recommendations (including on technical assistance) directly to the countries concerned, the UN system and to UN bodies.

Transition from CHR to HRC

The key is to achieve a smooth transition from CHR to HRC, without a break in the promotion and protection of human rights. The transition should allow the continuation of existing mandates of the Commission and of its Special Procedures. The EU believes that the General Assembly resolution should set a date for the establishment of the Council and elections to it. It should also ensure that existing mandates and all work in hand by CHR is continued until completed as envisaged. To achieve the latter, the resolution might simply include a clause transferring the mandate of CHR and responsibility for all its work and mechanisms directly to the Council. At an appropriate point, the Council might undertake a review of these mandates.

Given that the current Commission is a functional commission of ECOSOC, appropriate attention should be given to the involvement of ECOSOC in this transition.