

Procedure file

Basic information	
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Development of the UN Human Rights Council, including the role of the EU	
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Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	AFET Foreign Affairs	PPE-DE ANDRIKIENĖ Laima Liucija	24/06/2008
European Commission	Commission DG External Relations	Commissioner FERRERO-WALDNER Benita	

Key events			
23/09/2008	Committee referral announced in Parliament		
02/12/2008	Vote in committee		Summary
11/12/2008	Committee report tabled for plenary	A6-0498/2008	
14/01/2009	Results of vote in Parliament		
14/01/2009	Decision by Parliament	T6-0021/2009	Summary
14/01/2009	End of procedure in Parliament		

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Committee draft report	PE413.957	26/09/2008	EP	
Amendments tabled in committee	PE414.370	28/10/2008	EP	
Committee report tabled for plenary, single reading	A6-0498/2008	11/12/2008	EP	
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Development of the UN Human Rights Council, including the role of the EU

The Committee on Foreign Affairs adopted the report drafted by Laima Liucija ANDRIKIEN? (EPP-ED, LT) on the development of the UN Human Rights Council, including the role of the EU. The committee welcomes the work carried out by the UNHRC in its first two years of activity and notes that it has the potential to develop into a valuable framework for the European Union's multilateral human rights efforts. However, the committee regrets that during the first two years of its activities, the new body has not yet achieved more substantial progress in improving the United Nations' human rights record.

MEPs regret the failure of the UNHRC to take action on many of the world's most urgent human rights situations, partly due to the growing reluctance on the part of numerous UNHRC States which oppose any consideration of country situations including through country resolutions, special sessions and Special Procedures country mandates on the grounds that this would allegedly politicise the UNHRC. MEPs reiterate the view that the UNHRC's ability to address country situations effectively is central to its authority and credibility.

Other issues are raised as concerns the HRC, such as:

- the growing division of the UNHRC into regional blocs which creates a 'bloc mentality' which undermines its ability to deal effectively, impartially and objectively with human rights violations around the world;
- the quasi-universal composition of the HRC (notably at debates) could complicate voting, therefore MEPs suggest that a smaller composition could be beneficial to facilitate the debating process (even though the possibility of universal membership is to be explored in the context of the 2011 review);
- the fact that the principle of the universality of human rights is being increasingly put at risk, as is illustrated in particular by the attempts on the part of certain countries to introduce limits to well-recognised human rights, such as freedom of expression, or to interpret human rights against a cultural, ideological or traditional background; MEPs call on the EU to remain vigilant vis-à-vis these attempts and to strongly defend the principles of the universality, indivisibility and interdependence of human rights.

MEPs also examine certain procedures and practices of the UNHRC:

Special Procedures: MEPs consider that the Special Procedures are at the core of the UN human rights machinery and stress that the credibility and effectiveness of the UNHRC in the protection of human rights rests on cooperation with Special Procedures and their full implementation. They regard Special Procedures on country situations as an essential instrument for improving human rights on the ground. They consider that the nature and frequency of the country reviews under the UPR cannot replace country mandates and consequently opposes the attempts by certain countries to use the argument of 'rationalisation' of Special Procedures in order to eliminate those mandates. MEPs deplore in this respect the termination of country mandates in respect of Belarus, the Democratic Republic of the Congo and Cuba, and the abolition of the Group of Experts on Darfur. They also condemn the efforts made by several UNHRC Members to limit the independence and efficiency of Special Procedures and welcome the adoption of a Code of Conduct for Special Procedures Mandate-Holders. They call for improvement as regards **the selection and nomination of appropriate special procedures mandate-holders and for continuous support to be given to Special Procedures in terms of finance and human resources.**

Universal Periodic Review: MEPs recognise the potential value of the UPR mechanism in improving the universality of the monitoring of human rights commitments and practices throughout the world. However, MEPs regret that these first two sessions have not entirely lived up to expectations with regard to an 'objective, transparent, non-selective, constructive, non-confrontational and non-politicized' process.

MEPs call for increased attention to be given to economic, social and cultural rights as well as the rights of minorities during the UPR process. MEPs denounce the use of political alliances to shield certain States from scrutiny rather than to critically assess human rights conditions and protections, which seriously undermines the very purpose of the UPR. They express concern that, in several cases, the final report of the UPR and the interactive dialogue during the review did not reflect the information contained in the summary documents or even contradicted independent experts' findings, thus depriving the review process of its pertinence, and that the recommendations put forward in the reports of the Working Group were too vague and lacked any operational substance.

The members of the UPR Working Group are called upon to provide measurable, concrete, realistic and victim-oriented recommendations in its future reviews, based on information established by independent monitoring mechanisms or NGOs. MEPs regret the non-binding character of UPR recommendations, which stems from the right that the UPR affords States to decide which recommendations they can accept.

Participation of civil society and the Office of the High Commissioner for Human Rights: MEPs reiterate the importance of participation by civil society in the work of the UNHRC, and urges the EU Member States to introduce effective ways and instruments enabling civil society to participate in the UNHRC. MEPs reaffirms their opinion that the OHCHR is a key body within the United Nations system since it plays a crucial role in protecting and upholding human rights by mainstreaming those rights throughout the UN system and within all relevant organisations, notably in connection with activities linked to the restoration or strengthening of peace, development and humanitarian action. They encourage the efforts of the OHCHR to strengthen its presence on the ground through the opening of regional offices for example in Bishkek (Kyrgyzstan). They expresses their appreciation of the work of Ms Louise Arbour as head of the OHCHR and are confident that her successor, Ms Navanethem Pillay, will engage with similar enthusiasm and live up to the challenges of the post.

MEPs call on the EU Member States to continue to support the OHCHR, especially in the Administrative and Budgetary Fifth Committee of the General Assembly, so as to ensure that there is no interference with its independence and that it is granted all the financial resources needed to enable it to carry out its mandate.

The EU's role in the UNHRC: MEPs welcome the fact that all of the resolutions proposed or co-sponsored by the EU have been approved by the UNHRC during its first eight regular sessions and first seven special sessions; however, they regret that many controversial and non-consensual issues were not put to a vote. They note that the EU Member States participating in the UNHRC are split into two regional groupings, namely the Western European States group and the Eastern European States group. They also note that the EU opposes the presentation of 'clean slates' by regions, which results, effectively, in EU Member States competing between themselves for election to the UNHRC. The EU is encouraged to continue to press for the establishment of membership criteria for election to the UNHRC.

Noting that the EU finds itself in a numerical minority within the UNHRC, which certainly presents a challenge when it comes to making its voice heard, MEPs call on EU Member States to reinforce the EU's message by putting across 'one message, but with many voices'. They encourage EU Member States to further develop cross-regional initiatives as a useful way of counteracting bloc policies.

Although MEPs support the EU's stance in seeking a coordinated, common position at the UNHRC, they regret that, in the process of achieving a common policy amongst the EU Member States at the UNHRC, the EU often arrives at the UNHRC forum with the lowest common denominator, thereby restricting the dynamics of the EU diplomatic potential with other regional groupings. They regret the rather defensive attitude adopted by the EU in the UNHRC, in particular its reluctance to put forward resolutions on country situations, as well as its deliberate choice of consensus and its tendency to avoid language that would generate opposition, which in turn results in the acceptance of compromises that do not reflect the EU's preferences, as in the case of the resolutions adopted on Darfur in 2007, which resulted in the Group being disbanded despite the EU having originally pushed for it to be maintained.

MEPs call on the EU and its Member States to make better use of their potential influence in order to exercise the role that it could play as the leader of a group of democratic countries with solid human rights records. They consider that this leadership role can be best achieved by enhancing the partnerships with states from other regional groups, as shown by several EU initiatives within the UN system, such as the General Assembly resolutions on a moratorium on the death penalty and on the right to water.

MEPs call for closer coordination and cooperation between the relevant Brussels-based working groups of the Council of the EU and the EU Offices and the EU Member States' Permanent Representations in New York and Geneva and encourage the regular presence of Parliament's delegations at the sessions of the UNHRC in Geneva.

Lastly, as regards the review of the UNHRC to be undertaken in 2011, MEPs call on the EU to:

- reaffirm and strongly defend the principles of the universality, indivisibility and interdependence of human rights;
- ensure that the ability of the UNHRC to address country situations, including through country mandates, is preserved and reinforced;
- ensure the independence and effectiveness of Special Procedures in general, and work towards the realisation of the obligation to cooperate with Special Procedures for members of the UNHRC;
- work towards the strengthening of independent monitoring mechanisms and findings in the UPR process;
- reaffirm the UNHRC's specific role as the principal and legitimate international human rights forum and its complementarity vis-à-vis other UN bodies;
- safeguard the independence of the OHCHR;
- reinforce its external coalition-building strategy, notably through cross-regional initiatives;
- further address its internal/external human rights credibility, notably through Treaty ratification.

Development of the UN Human Rights Council, including the role of the EU

The European Parliament adopted by 629 votes to 26, with 10 abstentions, a resolution on the development of the UN Human Rights Council (UNHRC), including the role of the EU.

The own initiative report had been tabled for consideration in plenary by Laima Liucija ANDRIKIENĖ (EPP-ED, LT), on behalf of the Committee on Foreign Affairs.

The Parliament considers that after almost three years, this body - created to cure weaknesses in the UN Human Rights Council which suffers from a lack of credibility - has not fully fulfilled its objectives. While it is true that the UNHRC has carried out considerable work since its creation and that it provided for the adoption of important human rights standards (such as the International Convention for the Protection of All Persons from Enforced Disappearances and the UN Declaration on the Rights of Indigenous Peoples, as well as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which constitutes a landmark decision as it provides for a mechanism enabling victims of such violations to present petitions at the international level), the Parliament regrets that it has not yet achieved more substantial progress in improving the UN human rights record. The Parliament regrets, in particular, the failure of the UNHRC to take action on many of the world's most urgent human rights situations, partly due to the reluctance on the part of numerous States which oppose any consideration of country situations, on the grounds that this would allegedly politicise the UNHRC. The Parliament reiterates, however, the view that the UNHRC's ability to address country situations effectively is central to its authority and credibility.

The UNHRC is criticised on several other issues, including:

- the growing division of the UNHRC into regional blocs as this "bloc mentality" undermines the ability of the UNHRC to deal effectively, impartially and objectively with human rights violations around the world;
- the fact that the principle of the universality of human rights is being increasingly put at risk, as is illustrated in particular by the attempts to introduce limits to well-recognised human rights or to interpret human rights against a cultural, ideological or traditional background. The Parliament therefore calls on the EU to remain vigilant and to strongly defend the principles of the universality of human rights.

However, the Parliament welcomes the fact that the procedure for election to the UNHRC has made it possible to exclude from the UNHRC major human rights violators such as Iran and Belarus. While it acknowledges the desire for universality of the UNHRC (a 2011 review may provide for the opening up of the UNHRC to universal membership), the Parliament believes that a smaller composition could also prove to be beneficial.

The Parliament also refers to certain procedures and practices of the UNHRC, making the following points:

- special procedure (a mechanism for monitoring human rights in specific countries or for tackling global issues in terms of human rights): this type of procedure is at the core of the UN human rights machinery and therefore of its credibility and effectiveness. This procedure should therefore be strengthened as only a country by country review reveals how human rights are being respected on the ground. The Parliament is therefore strongly opposed to the attempts by certain countries to use the argument of "rationalisation" of Special Procedures in order to eliminate this type of mandate. Moreover, the Parliament condemns any limitations to the independence of special procedures and calls for a Code of Conduct in this area. It also calls for the selection and nomination of appropriate Special Procedures mandate-holders to be improved, as well as ways and means to strengthen this type of procedure. Furthermore, it proposes the establishment of mechanisms to report on the implementation of recommendations following a special procedure;
- Universal Periodic Review (or UPR, which subjects all UN Member States to equal treatment and scrutiny): the Parliament recognises the potential value of the UPR mechanism in improving the universality of the monitoring of human rights commitments and practices throughout the world. It regrets, however, that there has still not been any real response to the attempts made with regard to an "objective, transparent, non-selective, constructive, non-confrontational and non-politicised" process. According to the Parliament, this objective can be achieved only if the review involves independent expertise at all stages of the review process and an effective, result-oriented follow-up mechanism. It calls, in particular, for greater attention to be paid to economic, social and cultural rights as well as the rights of minorities during the UPR process. The Parliament particularly denounces the use of political alliances to shield certain States from scrutiny rather than to critically assess them (this practice reached a dangerous level in the review of Tunisia, which contained declarations significantly contradicting independent experts' findings). To reverse this trend, the Parliament calls on the members of the UPR Working Group to provide measurable, concrete, realistic and victim-oriented recommendations in its future reviews, based on information established by independent monitoring mechanisms or NGOs. The Parliament also regrets the non-binding character of UPR recommendations. In a wider sense, the Parliament calls on the UNHRC to increase the efficiency of the UPR, notably by tightening up procedures with a view to avoiding the deliberate obstruction of certain States;
- participation of civil society and the Office of the High Commissioner for Human Rights: reiterating the importance of participation by civil society in the work of the UNHRC, the Parliament urges the EU Member States to introduce effective ways and instruments enabling civil society and NGOs to participate in the UNHRC, including by involving them in practical terms on the ground. Moreover, it reaffirms its opinion that the OHCHR is a key body within the UN system and that it has a crucial role in protecting and upholding human rights. It welcomes, in particular, the opening of regional offices in Bishkek (Kyrgyz Republic) and the commitment of Ms Louise Arbour and Ms Navanethem Pillay to the role of High Commissioner for Human Rights. It therefore calls on the EU to continue to support the OHCHR, so as to ensure that there is no interference with its independence.

The EU's role in the UNHRC: the Parliament believes that the UNHRC has the potential to develop into a valuable framework for the EU's multilateral human rights efforts. It identifies, however, a certain number of challenges, including the regrettable absence of the United States from the UNHRC, which has led to the need for the EU to take on even more responsibility. However, EU Member States often constitute a numerical minority in relation to regional groups from Africa and Asia, which reduces the EU's impact within the UNHRC. The Parliament also notes some of the EU's successes, such as the call for special sessions on the situation regarding human rights in Darfur in December 2006, in Burma/Myanmar in October 2007 and in the East of the Democratic Republic of the Congo in November 2008.

Returning to the specific role of the EU within the UNHRC, the Parliament welcomes its sponsoring or co-sponsoring of certain UNHRC resolutions, but regrets, nevertheless, that many controversial issues have still not been put to a vote. The Parliament also notes that the EU Member States constitute a numerical minority within the UNHRC, which seriously obstructs the EU's ability to influence the agenda, and therefore calls on EU Member States to reinforce the unanimity of the EU's message by putting across "one message, but with many voices". It encourages EU Member States to further develop cross-regional initiatives as a useful way of counteracting bloc policies. It also calls on the EU and the Organisation of The Islamic Conference to intensify efforts to improve their mutual understanding and collaboration. The Parliament also calls on the EU to develop the practice put forward during the Slovenian presidency of "outreach" towards other UNHRC members and burden-sharing between EU Member States. It welcomes, in particular, the increasing trend whereby EU Member States intervene in the debates.

While the Parliament supports the EU's stance in seeking a coordinated, common position at the UNHRC, it regrets however that, in the process of achieving a common policy, the EU often arrives at the UNHRC forum with the lowest common denominator, thereby restricting the dynamics of the EU diplomatic potential with other regional groupings. It also regrets the rather defensive attitude adopted by the EU in the UNHRC (in particular its reluctance to put forward resolutions on country situations, as these usually meet with intense resistance from particular countries) as well as its deliberate choice of consensus that does not necessarily reflect the EU's preferences.

The Parliament therefore calls on the EU and its Member States to make better use of their potential influence in order to exercise the role that it could play as the leader of a group of democratic countries, including by enhancing the partnerships with States from other regional groups (as was the case for achieving a moratorium on the death penalty and the vote on the resolution on the right to water).

The Parliament calls for closer coordination and cooperation between the relevant Brussels-based UNHRC working groups, as well as for the regular attendance of Parliament's delegations at the sessions of the UNHRC in Geneva.

In the light of the review of the UNHRC to be undertaken in 2011, the Parliament calls on the EU to:

- reaffirm the principles of the universality, indivisibility and interdependence of human rights;
- reinforce the ability of the UNHRC to address country situations;
- ensure the independence and effectiveness of Special Procedures in general, and work towards the realisation of the obligation to cooperate with Special Procedures for members of the UNHRC;
- strengthen the independent monitoring mechanisms and findings in the UPR process;
- reaffirm the UNHRC's specific role as the principal and legitimate international human rights forum and its complementarity vis-à-vis other UN bodies;
- safeguard the independence of the OHCHR;
- reinforce its external coalition-building strategy, notably through cross-regional initiatives;
- further strengthen its internal/external human rights credibility, notably through treaty ratification.

Lastly, the Parliament once again calls on the EU to make more effective use of its aid and political support to third countries, as well as other instruments such as human rights dialogues and consultations, with a view to guaranteeing broader agreement on its initiatives or initiatives

that it co-sponsors. It calls on the EU Member States and the Commission to take into account the outcome of the UNHRC's work vis-à-vis a given State, including the recommendations and conclusions of the UPR, when defining the objectives and priorities of EU assistance programmes.