

UN Human Rights Council
Swiss position on main issues
19.10.2005

Heads of States and Governments unanimously decided at the UN M+5 Summit last September to establish a Human Rights Council. Switzerland considers this as a unique opportunity for all of us to improve the way the UN works and assists us in enhancing promotion of and respect for human rights within our countries.

An effective Human Rights Council would enable us to work cooperatively to achieve our human rights objectives. It would help us to address the full range of human rights – civil, political, economic, social, cultural – and hence contribute to security and development. In addition to allowing discussion of human rights challenges, the Council could also facilitate assistance to States willing to improve the respect for human rights domestically, as well as engagement and cooperation on a range of human rights activities and programmes.

On the main issues of the Human Rights Council, Switzerland has the following positions :

Process:

- In the Summit Outcome Document, Heads of State and Government mandated the President of the General Assembly to conduct open, transparent and inclusive negotiations, as soon as possible, to establish the Council.
- The President of the General Assembly has set up a process accordingly: two co-chairs (South Africa and Panama) have been appointed to carry out consultations, leading to formal negotiations starting the week of November 28th.
- Building on extensive discussions that have taken place in the last few months, this process should enable us to come to an agreement/decision in reasonable timelines (end of this year).
- We should all support the President in this undertaking.

Status:

- As stated in the Outcome Document, human rights, development and security are the pillars of the United Nations system. The Human Rights Council should therefore at least be a subsidiary body of the General Assembly to give Human Rights the status in the UN system that development and security already have.
- The Council should be a standing body with a revised agenda, located in Geneva, and be able to meet periodically and whenever necessary. The annual frequency of the sessions could take the form of four regular sessions of three weeks. Special sessions could also be called.
- Five years after its establishment, an evaluation of the status and functioning of the Council should be carried out by the General Assembly in the light of the experience gained and with the perspective of creating a principal organ.

Mandate and functions

The mandate of the new Council should clearly provide "added value" compared to the mandate of the Commission on Human Rights, while preserving the "acquis" of the Commission. In this regard, the Human Rights Council should:

- work on standard-setting and thus be competent to take action and make recommendations for respect of human rights and further development of international human rights law;
- offer a framework for country specific technical cooperation, capacity building, human rights dialogues and advisory services aimed at assisting Member States in implementing their human rights commitments and obligations;
- deal with thematic issues and country situations by addressing human rights violations and making recommendations to States and relevant UN bodies, including through the system of special procedures and through peer reviews. In the peer reviews, a State should present its human rights situation and its commitments, followed by an inter-active dialogue with member, non-members and NGOs;
- be able to address urgent or serious situations of human rights violations and take appropriate action;
- promote effective coordination and mainstreaming of human rights within the UN system;
- retain the current special procedures and expand interactive dialogue between them and States.

Size, composition and membership :

- The Council should be sufficiently large to ensure legitimacy and small enough to work efficiently. The size of the Council should be approximately similar to the one of the Commission on Human Rights. Membership should be open to any Member State of the United Nations.
- Members of the Human Rights Council should be elected preferably by two-thirds of the General Assembly with an equitable geographical distribution.
- When submitting their candidacy, Member States should provide "voluntary pledges and commitments" for national implementation of human rights and international co-operation including record of signatures/ratifications of human rights treaties and their cooperation with special procedures.
- Non-members of the Council should be able to participate in all meetings of the Council on any issue or matter brought before it.
- NGOs should also participate in the work of the Council. In this regard, at least existing practices of the Commission on Human Rights should be maintained. (i.e. ECOSOC rules of procedures, based on Art. 71 of UN Charter). Their participation should be better structured.
- Other observers such as UN agencies and International Governmental Organisations, the ICRC, International and National Human Rights Institutions should also be able to actively participate.

Rules of procedure and methods of work:

- The Human Rights Council should determine and enact its own rules of procedures, based namely on existing practice of the Commission on Human Rights and decide on the status of its subsidiary bodies and other mechanisms.
- The Council should present an annual report to the General Assembly.
- The Council should interact with relevant UN bodies, in particular those dealing with peace, security and development.
- The Council should work closely with the High Commissioner for Human Rights and be assisted by an efficient secretariat provided by the Office of the High Commissioner for Human Rights.

Transition:

- The Commission on Human Rights should meet in 2006 in order to take transitional decisions until the Human Rights Council is established and fully functioning.
- No interruption or suspension of the Commission on Human Rights should open the gaps in the human rights protection.

Location

- As broadly agreed, the Human Rights Council should be based in Geneva. In this context, Switzerland will take all necessary measures (for example office facilities) to allow member States that do not have a permanent Mission in Geneva to participate in an appropriate manner to the sessions of the future Human Rights Council.