

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL ALERT HUMAN RIGHTS COUNCIL, RESUMED 6TH SESSION 10 TO 14 DECEMBER 2007

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Overview

The Human Rights Council (the Council) will resume its 6th session for one week on 10 December 2007. The first part of the 6th session was held from 10 to 28 September 2007. A draft programme of work for the resumed 6th session has been circulated.¹ Like the first part of the session, the resumed session will deal both with substantive issues, and with the continuation of some aspects of the institution-building process (namely the review, rationalisation and improvement of special procedures mandates and possibly the selection of troikas for the UPR).²

On 26 November 2007, the Council held an organisational meeting to prepare the resumed session. Ambassador Costea of Romania, President of the Council, presented a slightly amended programme of work, and informed members about ongoing informal meetings related to the selection of the troikas for the universal periodic review (UPR).

Programme of work

In terms of substance covered by the Council, the programme of work for the resumed session is a continuation of the first part of the session. During the organisational meeting, President Costea pointed out that since the December session was a resumed session, not all agenda items could be considered again. Those that had already been considered during the first part of the 6th session in September would not be

¹ Available on <http://ohchr.org/english/bodies/hrcouncil/6session/agenda.htm>.

² The International Service for Human Rights (ISHR) will publish a preliminary overview of the first part of the 6th session in the coming days. Please check www.ishr.ch frequently to access it.

reopened. Exceptions are made for Items 3 (promotion and protection of all human rights) and 4 (human rights situations that require the Council's attention) because reports under these items are pending and were not yet addressed in September. Although it is not mentioned on the programme of work, Ms Louise Arbour, the High Commissioner for Human Rights (the High Commissioner) will address the Council on Tuesday, 11 December 2007. The President was careful to point out that her update report was not part of the annual report of the High Commissioner, which would be delivered to the March session. Ms Arbour's statement will be circulated in advance of the session and its presentation will be followed by comments from States and observers.

Under Item 3, the Council will consider **reports of the Working Group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights** (the Covenant) and debate the **rectification of the legal status of the Covenant**. It will also hear two reports of special procedures, of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.³

Item 4 will deal with the follow-up to decisions taken during the first part of the 6th session and at the 5th special session on Burma/Myanmar. On Tuesday, 11 December 2007 the Council will consider the final report by the **United Nations Experts Group on Darfur** (the Experts Group).⁴ The Experts Group submitted an interim report during the first part of the 6th session, which contained a preliminary assessment. It had stressed that it was 'not in a position to report that a clear impact on the ground has been identified' but that a comprehensive analysis of the situation would be ready for the December session.⁵

Shortly after the conclusion of the first part of the 6th session, on 2 October 2007, the Council held a **special session to consider the situation in Burma/Myanmar**, where the violent repression of peaceful demonstrations had triggered worldwide outrage.⁶ The consensus resolution passed at the special session urged the government of Myanmar to halt the violations, cooperate with international mechanisms, and grant the Special Rapporteur on the situation of human rights in Myanmar, Mr Sergio Paulo Pinheiro, access to the country. Mr Pinheiro was requested to assess the situation, monitor the implementation of the resolution and report back to the Council at the resumed 6th session. Despite having refused to receive Mr Pinheiro since 2003, the authorities finally after heavy international pressure, not just from the Human Rights Council, allowed Mr Pinheiro to visit Burma/Myanmar. He conducted a visit to Burma/Myanmar from 11 to 15 November 2007. During his visit, he met with UN officials, foreign diplomats and various government representatives.⁷ He is also reported to have visited prisons and political detainees.⁸

Mr Pinheiro will present a report on his visit also on 11 December 2007. It will be interesting to see the amount of cooperation he has been able to secure from the government, as well as the extent to which he has

³ On Wednesday, 12 December 2007. The reports are available on ohchr.org/english/bodies/hrcouncil/6session/reports.htm. ISHR has produced unofficial summaries of special procedures reports considered at the Council ("*Reports in short*") available at www.ishr.ch/hrm/council/reports_in_short.

⁴ The Experts Group was mandated by Human Rights Council *Resolution OM/1/3*. It is presided by the Special Rapporteur on the situation of human rights in the Sudan and composed of the Special Representative of the Secretary-General for children and armed conflict, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on the situation of human rights defenders, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on the question of torture, and the Special Rapporteur on violence against women, its causes and consequences

⁵ See ISHR's *Daily Update* of 24 September 2007, available at www.ishr.ch.

⁶ See ISHR's report of the special session, available at http://www.ishr.ch/hrm/council/other/cmreports/specialsessions/ss_myanmar_2_october_2007.pdf.

⁷ See OHCHR press release: <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/E85D3FE1A483B685C12573930050DD55?opendocument>.

⁸ See <http://news.bbc.co.uk/2/hi/asia-pacific/7091937.stm>.

been able to clarify the often conflicting information regarding the human rights situation in Burma/Myanmar.

Institution-building

Review, rationalisation and improvement of special procedures

On the institution-building side, the Council will continue the review, rationalisation and improvement of special procedures mandates. The review of individual mandates started during the first part of the 6th session, and a number of mandates have already been reviewed. Some mandates were renewed,⁹ others were postponed and will be considered at a later session.¹⁰ During the resumed 6th session, the following mandates will come under review:

- Representative of the Secretary-General on internally displaced persons (IDPs).
- Special Rapporteur on the promotion and protection of human rights while countering terrorism.
- Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
- Special Rapporteur on the situation of human rights in the Sudan.
- Independent Expert on technical cooperation and advisory services in Liberia.

On some of these mandates, consultations with the original sponsors of the resolution establishing the mandates have begun, and will no doubt continue until the session starts. Usually, these consultations are open to NGO participation. Check the OHCHR extranet regularly to find information, as it is often posted there.¹¹ During the first part of the 6th session, some of the mandates reviewed have come under attack. In particular, States have threatened to discontinue the mandate of the Special Rapporteur on the situation of human rights in the Sudan. The argument was that the Government of the Sudan was already cooperating with the Experts Group on Darfur, and therefore the Special Rapporteur's mandate had become redundant.¹²

On a more general note, Egypt (on behalf of the African Group) said during the organisational meeting it was still expecting the President to suggest more detailed modalities for the conduct of the reviews. This demand had come up in the first part of the 6th session.

Selection of the UPR troikas

A further issue related to the institution building is the selection of the 'troikas' for the UPR. The so-called 'troika' is a group of three rapporteurs, selected by drawing of lots from among Council members and from different regional groups. Their role is to facilitate each review, including the preparation of the report of the

⁹ Working Group on Arbitrary Detention, Independent expert on human rights and international solidarity, Special Rapporteur on the right to food, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Independent expert on the situation of human rights in Burundi, Independent expert appointed by the Secretary-General on the situation of human rights in Haiti.

¹⁰ Special Rapporteur on freedom of religion or belief, Independent Expert on the situation of human rights in the Democratic Republic of the Congo (DRC), Special Rapporteur on the situation of human rights in the Sudan.

¹¹ The OHCHR extranet can be accessed at <http://portal.ohchr.org> (requires username and password; fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive them).

¹² See ISHR's *Daily Update* of 24 September 2007.

UPR Working Group. Initially, the President of the Council intended to draw the lots on 26 November 2007, during the organisational meeting. However, following a request by the African Group, the Bureau of the Council decided to postpone the drawing of lots. Despite the fact that the current programme of work for the resumed 6th session does not provide room for the selection of troikas, this issue dominated the debate during the organisational meeting.

Some States welcomed this decision.¹³ Pakistan (on behalf of the OIC) explained that before the members of each troika could not be designated before the role of the troikas had been clarified. The Ambassador of Morocco, who had been facilitating the negotiations on the modalities of the UPR during the institution-building process, pointed out that the troika-model had been introduced at the last minute as a compromise to ensure the successful adoption of the institution-building package.¹⁴ Accordingly he agreed with the need to better define the role of the troika.

Others were critical of the postponement and urged the President to keep the delay as short as possible.¹⁵ The United Kingdom pointed out that the preparation of States acting as troika members requires an early selection of these members. This would allow States to allocate the necessary resources well in advance. Mexico was of the view that the role of the troika and the selection of members of the troika should not be linked. Despite the apparent lack of clarity or even agreement on the role of the troikas, many States pledged that they did not wish to renegotiate or reopen the institution-building package adopted in June.¹⁶ However, it seemed that there was no shared understanding on the precise meaning of ‘not reopening the package’.

Concerning the role and nature of the troika, only few comments were made. Pakistan (on behalf of the OIC) demanded that this issue be given more consideration, suggesting that the role of the troika was only to ‘collate’ information. According to Pakistan, the troika should have only a ‘factual and not an interpretative’ role. Algeria demanded that the individuals designated by a State drawn from the lot to serve as a troika member should be nationals of the State they represent. A number of States stressed that each State was free to designate any individual as its representative on the troika.¹⁷

Even though the selection of the troikas is not mentioned on the programme of work, it can be expected that at least more information as to how the President intends to proceed on this issue, will become available.

¹³ Pakistan (on behalf of the OIC), Egypt (on behalf of the African group), Algeria, China, South Africa, Morocco, Russian Federation, India, Bangladesh, Ghana, Ethiopia.

¹⁴ See *Human Rights Council Resolution 5/1*.

¹⁵ United Kingdom (on behalf of the Western European and others group, WEOG), Canada, Portugal (on behalf of the EU), Peru, Switzerland, Mexico, Uruguay, Argentina, Japan, Republic of Korea, Turkey, Italy. Uruguay announced that it would not make use of its right to reject any member of the troika reviewing Uruguay, or refuse to be a member of any troika if it was asked to be a part of.

¹⁶ Pakistan (on behalf of the OIC), United Kingdom (on behalf of WEOG), Canada, Portugal (on behalf of the EU), Switzerland, Japan, Bangladesh, Nicaragua.

¹⁷ Peru, Argentina, Uruguay, Nicaragua.

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The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch/hrm/council

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