



**UNITED NATIONS HUMAN RIGHTS COUNCIL
Third Session**

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**Progress reports and further discussion or decisions
Of the Working Group on the Universal Periodic Review**

**Statement by the Finnish Presidency
on behalf of the European Union**

Geneva, 4 December 2006

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Mr. President.

I am speaking on behalf of the European Union.

The Acceding Countries Bulgaria and Romania, the Candidate Countries Turkey, Croatia and the former Yugoslav Republic of Macedonia*, the Countries of the Stabilisation and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro, Serbia, as well as Ukraine and the Republic of Moldova align themselves with this declaration.

First of all, let us thank the facilitator, H.E. Mr. Mohammed Loulichki, for a set of well-prepared and thought provoking preliminary conclusions. The Universal Periodic review should indeed be a credible, effective and manageable mechanism aimed at the enhancement of the implementation of all states' human rights obligations and commitments. In this process, we must keep in mind the rights of those most in need of protection, including children and women. The UPR will be to some extent an evolving process, which can be improved on the basis of experience and lessons learned. However, to ensure the quality of the review mechanism, we believe that we should carefully consider the different options for the modalities of the UPR before making any final decisions on them. This process is undertaken under the wise guidance of our facilitator and we look forward to continuing in the coming discussion and in future working group sessions.

We will now shortly comment on the basic elements, especially those which require further consideration according to the preliminary conclusions.

Mr. President,

First, on the basis of the review, it is important to use existing information, including the conclusions and recommendations of treaty bodies and special procedures, so as not to burden the review process and duplicate unnecessarily with the work of the existing human rights mechanisms. As we have agreed the focus of the review should be i.a. the Universal Declaration of Human Rights and human rights treaty obligations. It would be only natural to use information flowing from the treaty bodies, which give an authoritative and impartial interpretation of human rights obligations under a specific treaty and of the implementation of those obligations at the national level, as well as the independent and impartial information from special procedures. The UPR should not, however, conduct a second substantive assessment of compliance with human rights mechanisms obligations, but instead focus on the implementation of those recommendations. Where there is a lack of information on a country's main human rights challenges owing from lack of cooperation with treaty bodies or Special Procedures, information from the OHCHR, UN Country teams, National Human Rights institutions and NGOs must help fill these gaps.

Where national constitutions and legislation are incompatible with a state's international human rights obligations, they could become a part of the subject material review. The EU believes that international customary law and international humanitarian law could form part of the review where specific obligations are replicated, inter alia the UN charter, the UDHR, human rights treaty obligations undertaken by the state or a state's voluntary commitments.

The review should take into account the measure to which the country concerned cooperates with UN human rights mechanisms, and indeed encourage full cooperation and engagement with them.

* Croatia and the former Yugoslav Republic of Macedonia continue to be part of the Stabilisation and Association Process.

Mr. President,

Second, on objectives and principles. The UPR is among a number of tools at the disposal of the Human Rights Council to discuss and take action on different human rights situations.

We would like to stress that through General Assembly resolution 60/251 the Council has been given a broad mandate to deal with human rights: the mandate covers, i.a. cooperation, capacity building and prevention and there is also a mandate to deal with urgent human rights situations.

Considering the mandate of the Council, the UPR is not the only means to deal with country situations. The Council has in addition to the UPR various options at hand, including Special Procedures, to deal with country situations in a constructive and timely manner. The UPR should neither preclude other UN human rights mechanisms to address country situations. Naturally, the UPR in itself must also be able to assess and address situations of human rights violations, as the objective of the mechanism is the enhancement of the promotion and protection of human rights.

The principle of transparency is of utmost importance to ensure the credibility of the process. The review should be conducted in public and the participation of all relevant stakeholders, including NGOs, must be ensured in accordance with the rules on NGO-participation that the Council has assumed from the Commission and further developed and strengthened in its practice.

Third, on periodicity. All states must be examined at regular intervals which would be the same for all states in order to fulfil the requirement laid down in General Assembly resolution 60/251 that UPR should ensure "equal treatment with respect to all states" (OP5e). Equal treatment however is not the same as uniform outcome which must be matched to the particular circumstances and challenges faced by each state. In order to ensure that the mechanism is meaningful and efficient an interval of 3-4 years for each state to be reviewed should be established.

The order of countries to be reviewed should be determined by lot, adjusted in order to allow for the review of Members during their membership of the Council.

Fourth, the process and modalities. We are in favour of establishing separate inter-sessional working groups or sub-committees responsible for undertaking the review, in order to enable a reasonable frequency while ensuring that the Council does not become over-burdened with the review. Best use of expert input and involvement in the working groups/ sub-committees and in the process as a whole should be ensured.

We are not in favour of creating new reporting obligations for states and would like to recall that in this respect the UPR, due to its lack of contractual engagement by states, is not comparable to a treaty body. The Office of the High Commissioner should compile a background document based on existing information and on the basis of which key human rights challenges the country is facing could be identified.

Fifth, the final outcome should be adopted in the Council plenary. The Council should strive towards reaching a consensus on the outcome, but this should not be done at the cost of the promotion and protection of human rights.

The Council should have at its hands various options when deciding on the outcome. In addition to identifying problems relating to implementing human rights and needs for capacity building and technical assistance and exchanging best practices, the Council could also decide for example to appoint a special rapporteur or decide to dispatch a fact-finding mission to study the situation in the country concerned. These measures should not be seen as measures singling out any particular country, but as an effort in a cooperative manner to further strengthen the promotion and protection of the human rights situation in a given country.

We believe it is too early to discuss the establishment of a dedicated fund for capacity building in the context of the UPR. We should first try to explore the possibilities to make best use of existing mechanisms for funding.

Finally, on the follow-up. The Council must be able to follow-up the implementation of the outcome of the review at any session and consider further measures to be taken. Naturally, also the country concerned has a primary role in the implementation of the recommendations flowing from the outcome.

Thank you, Mr. President.
