

**COST IS0702 ‘The role of the EU in the human rights reform’
Working group I, Reform of UN human rights mechanisms
Nottingham, 19 September 2009**

Report by Ineke Boerefijn

The Working Group discussed the issue ‘Reform of UN human rights mechanisms’, that covers the following three sub-themes: a World Court of Human Rights, the Human Rights Council and the Office of the High Commissioner for Human Rights. Due to the fact that the Working Group had before it two papers on a World Court,¹ the discussion mainly focused on that aspect. The authors of both papers intend to integrate their papers and to prepare one consolidated draft Statute for a World Court before the end of October.

Manfred Nowak introduced his paper and stressed that the draft Statute as presented does not create new substantive obligations, but seeks to strengthen the monitoring of already accepted treaty obligations. The Working Group discussed the following issues:

- The position of a World Court *vis-à-vis* the regional human rights courts; some speakers wondered whether a World Court should function as an appeals court or whether individuals should be able to submit a complaint directly to the World Court without first submitting it to a regional court. Manfred Nowak and Julia Kozma stated that their paper was clear in its choice: a World Court should not be an appeals court, forum shopping by individuals should be avoided. It was suggested to examine the problems that regional human rights courts have faced in their work, and what relevant lessons could be learned.
- The impact a Court could have on the work of the UN human rights treaty bodies. For example, it was observed that the establishment of a Court would result in more time for the treaty bodies for its work under the reporting procedure.
- Various speakers suggested that the papers could further elaborate the additional values of a World Court, such as the broader scope of the UN treaties which cover all human rights, if compared to the regional treaties which cover mainly civil and political rights.
- The obligation to strengthen the national protection machinery was welcomed by various participants. This obligation underlines the complementary nature of the World Court. It implies that domestic courts should be enabled to apply international standards directly.
- Scope of the jurisdiction: it was proposed not to limit the World Court’s jurisdiction to the core UN human rights treaties, but to open up the possibility for the Court to deal with other treaties that are relevant for the protection of human rights, such as ILO and UNESCO Conventions. The draft Statute proposes to leave it up to States to opt in.

¹ Manfred Nowak and Julia Kozma, A World Court of Human Rights, and Martin Scheinin, Towards a World Court of Human Rights. Both papers had been prepared for the Swiss Initiative to Commemorate the 60th Anniversary of the UDHR, Protecting Dignity: An Agenda for Human Rights (June 2009).

- Another novel aspect relating to the scope of the jurisdiction concerns the accountability of non-state actors before the Court. It is proposed to extend the jurisdiction of the Court to, *inter alia*, multinational corporations and specialised agencies. Various Working Group participants welcomed this proposal. In connection with this point, it was noted that this particular aspect would be appealing to many States, and it would contribute to consider the initiative not as a mainly western invention.
- Another point discussed was the proposed introduction of the articles on remedies and reparation. It was suggested to add explicitly that States are under an obligation to take steps to avoid repetition of the violation.

Subsequent to the discussion on the paper, the Working Group made an inventory of relevant research projects carried out or planned by the participating institutes, which included:

- Fred Grünfeld (Maastricht Centre for Human Rights, Maastricht University). Shortly, a PhD project on the impact of the reporting procedure at the domestic level will start. Another project concerns the prevention of genocide, with case studies on Rwanda, Srebrenica and Darfur, which will include an examination of the role of the entire UN system.
- Nils Butenschøn (Norwegian Centre for Human Rights, University of Oslo) referred to a project led by Geir Ulfstein and Andreas Føllesdal, entitled ‘Should States ratify human rights conventions?’.
- Michael O’Flaherty (Human Rights Law Centre, University of Nottingham) suggested that the Working Group pay attention to the relationship between the Human Rights Council’s Universal Periodic Review and the work of the human rights treaty bodies. He observed that the High Commissioner for Human Rights was keen to move the discussion on treaty body reform forward.
- Martin Jones (Centre for Applied Human Rights, University of York) recalled the relevance of developments in the field of refugee law, and referred to the establishment of the World Refugee Commission.
- Ineke Boerefijn (Netherlands Institute of Human Rights (SIM), Utrecht University) pointed to SIM’s research programme that focuses among other things on comparative research, including the roles and functions of regional human rights courts and UN human rights treaty bodies. The PhD research on the role of The Netherlands in the UN Commission on Human Rights could also be relevant.
- Bertie Ramcharan reiterated the need for research on the role of the OHCHR, in particular on the responsibility to protect.

The final point discussed by the Working Group concerned the next steps to be taken. It was decided to ask Jan Wouters (Faculty of Law, Catholic University of Leuven) to finalise his paper on the Human Rights Council, and to pay attention to the responsibility to protect. Kevin Boyle (Human Rights Centre, University of Essex) agreed to prepare a short paper on the role of the OHCHR. These two papers would be discussed at the next meeting, on 25 and 26 March 2010. Subsequent to the conclusion of the meeting of the Working Group, the Catholic University of Leuven expressed its willingness to host that meeting.