

Security Council Open Debate on Rule of Law

Tuesday, 29th June 2010, Security Council Chamber (GA-TSC-01)

Statement by Ambassador Mayr-Harting, Permanent Representative of Austria to the United Nations

At the outset, let me congratulate the Mexican presidency for organizing today's open debate on the subject, "The promotion and strengthening of the rule of law in the maintenance of international peace and security" and for preparing the concept note (S/2010/322, annex). Let me add that in view of your outstanding personal experience in this matter, Mr. President, it is a particular pleasure to have you presiding over the Council today. Austria warmly welcomes the initiative. I would also like to thank Deputy Secretary-General Migiro and Under-Secretary-General O'Brien for their statements and their presence here today.

Austria reaffirms its firm commitment to an international order based on international law, including human rights law, and the rule of law with the United Nations at its core. We believe that international law and the rule of law are the foundations of the international system. Clear and foreseeable rules, respect for and adherence to these rules and an effective multilateral system to prevent or sanction violations are preconditions for lasting international peace and security. In our view, it is the rule of law in all its dimensions — the national, international and institutional levels.

For many years Austria has particularly focused on the role of the Security Council in strengthening a rules-based international system. You, Mr. President, have already kindly referred to our initiative launched in 2004 on the rule of law and the Security Council. We started this with the New York University School of Law and launched a series of panel discussions on the topic. Together with you, Sir, in your then-capacity as Permanent Representative of Mexico, and with Liechtenstein and other like-minded members of the Group of Friends of the Rule of Law, prepared a final report on this subject. It was presented in New York in April 2008 and published as a Security Council document (S/2008/270, annex). The report contains 17 specific recommendations on how the Security Council could strengthen the rule of law in its various fields of activity. During our membership on the Council we have consistently worked with other delegations to implement and mainstream these recommendations in the Council's daily business.

In this context, Austria also commends the efforts of the Security Council Informal Working Group on Documentation and Other Procedural Questions to strengthen the transparency of the Council's working methods by reviewing and updating the relevant presidential note (S/2006/507), thereby enhancing the rule of law in the everyday work of the Council.

Since the last open debate on the rule of law, in June 2006 (5474th meeting), significant progress has been made with the establishment of the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit. We are grateful for the personal involvement of the Deputy Secretary-General in this important matter. We strongly support the Group and the Unit in their efforts to ensure a coordinated and coherent response. We also support the specific proposals made by the Deputy Secretary-General on the subject.

Among the topics raised in the concept paper, let me first address the importance of the rule of law in conflict and post-conflict situations. In resolution 1894 (2009), the Security Council reaffirmed that the deliberate targeting of civilians and the commission of systematic, flagrant and widespread violations of applicable international humanitarian and human rights law in situations of armed conflict may constitute threats to international peace and security and imply the adoption of appropriate measures by the Council. Respect for international humanitarian law by all parties to a conflict is essential for the protection of civilians and should be an important aspect of any comprehensive strategy for resolving conflict. We stress the special rights and protection of **women** and children under international law, which we urge all parties to conflict to respect.

The rule of law is the cornerstone of all peacebuilding efforts. We call on the Council to express its commitment to ensure that all United Nations efforts to restore peace and security themselves respect the rule of law. The promotion of the rule of law in post-conflict situations can only be achieved through an integrated and coordinated approach that encompasses all the actors involved. In that context, the Peacebuilding Commission has a vital role to play. We

commend the important contributions made by international and regional organizations in this area, including the European Union and the International Development Law Organization.

Turning now to international justice and the peaceful settlement of disputes, Austria strongly supports the role of the International Court of Justice as the principal judicial organ of the United Nations. We call on all States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute. For its part, Austria accepted the compulsory jurisdiction of the Court four decades ago.

With regard to international efforts to end impunity for the most serious crimes of international concern, Austria stresses the important role of the International Criminal Court (ICC), ad hoc and mixed tribunals and specialized chambers of national tribunals. Austria strongly believes that the permanent International Criminal Court is one of the most effective tools for buttressing the rule of law and combating impunity. In that regard, we commend the stocktaking of international criminal justice undertaken by the first Review Conference of the ICC, held from 31 May to 11 June in Kampala at the invitation of the Government of Uganda. While the ad hoc Tribunals for the Former Yugoslavia and Rwanda are only temporary institutions, as Chair of the Security Council's Informal Working Group on International Tribunals, Austria is working to establish a mechanism to take over their residual functions, and thus preserve justice and the rule of law.

We believe that the United Nations and the Security Council must continue to be at the forefront of the fight against impunity and to ensure that alleged violations are investigated and those responsible for crimes held accountable. Accountability must be ensured by taking measures at the national level, such as through domestic prosecutions, truth-seeking, providing reparations for victims and through institutional reform. Justice is essential to achieving lasting peace and reconciliation, as well as to avoiding the recurrence of violations in the future.

As Chair of the Al-Qaida/Taliban Sanctions Committee, Austria is also committed to enhancing the efficiency and credibility of sanctions regimes — and almost all the representatives who have spoken so far have brought up that subject today. Sanctions play an important role in promoting compliance with international law and fighting international terrorism. However, when they target individuals, sanctions also raise questions about procedural guarantees and due process. Austria welcomes the adoption of resolutions 1822 (2008) and 1904 (2009), which provide for substantial improvements in the listing and de-listing procedures of the Al-Qaida/Taliban sanctions regime. Like others, we warmly welcome the Secretary-General's recent appointment of Ms. Kimberly Prost, who is an outstanding lawyer, as the Ombudsperson. I would specifically like to assure Under-Secretary-General O'Brien, who made the point, that the Committee is looking forward to working with her very closely.

Finally, my delegation would like to express its strong support for the draft presidential statement that the Council will adopt today and for the request to the Secretary-General to prepare a follow-up to his 2004 report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616).