

Conference Report

sef: Policy Lunch

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Making the Multilateral System Fit for the Future – The role of the European Union in revitalising international law

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Intersecting and novel types of global risks and crises are accelerating while the existing multilateral structures are struggling to find appropriate responses. This is due to the fact that these structures are still based on a 19th/20th century architecture – designed to meet the challenges of the last century. With his report “Our Common Agenda”, published in September 2021, UN Secretary-General António Guterres has initiated a process which aspires to transition the United Nations, the heart of the global governance architecture, into a body more prepared for the 21st century. In “Our Common Agenda”, Guterres names the strengthening of

international law as a central pillar in this regard, calling for a “new vision” for the rule of law and a global road map for the development and effective implementation of international law.

The first sef: Policy Lunch to be held in person in Brussels since March 2020 discussed what the strengthening of international law and its institutions could look like, and what the role of the European Union could be in this regard.

In her opening remarks, Susanne Metzler, Deputy Director of the Representation of the State of North Rhine-Westphalia to the European Union (EU), who again hosted the Policy Lunch, reminded the participants of the need and the urgency to strengthen multilateralism and its institutions. This point was taken up by Sascha Werthes, Senior Lecturer at the Chair for International Relations and Foreign Policy at Trier University: he emphasised the return of offensive geopolitics, which culminated in Russia’s aggression against Ukraine in February. This rupture is accompanied by various further geopolitical and ecological challenges. In this regard, he reminded the audience that the Charter of the United Nations, signed in 1945, was intended to be reformed 10 years after its adoption, which, however, never happened. Moreover, it is now time to look at the global governance architecture and, in particular, the international legal framework. He asked Maja Groff, international lawyer and a Convenor of the Climate Governance Commission, how the international rule of



sef: Policy Lunch May 2022: Welcome by Deputy Director Susanne Metzler

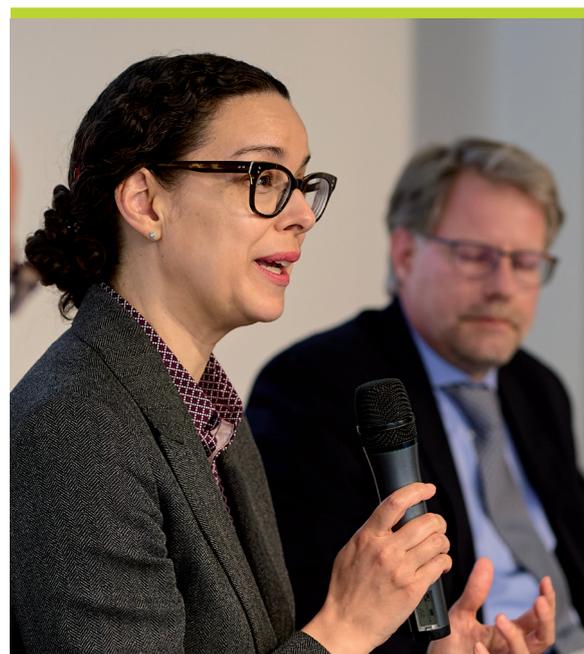
law could be improved and to what extent these reforms in particular could lead the international global governance system to an improved way of dealing with the current geopolitical and ecological challenges.

Revitalising international law

Ms Groff has recently published an *sef*: Global Governance Spotlight, which discusses options for revitalising international law by strengthening existing key institutions such as the International Court of Justice (ICJ) and establishing new institutions such as an International Anti-Corruption Court (IACC). As intersecting global (existential) risks and crises accelerate, the international community has yet to summon the necessary levels of collective ambition equal to the problems confronted. To date, international action on key global issues remains weak and insufficiently coordinated, and serious efforts at reinforcing the current international governance architecture are lacking.

Core international values – such as those enshrined in the UN Charter and in other major universally accepted international documents like the Universal Declaration of Human Rights – should drive our global diplomatic efforts to ensure the requisite institutional capacities to realise these values. One such value, indeed, is respect for the

Related to these considerations, Groff proposes institutional reforms, such as upgrading the ICJ and the current international human rights archi-



Maja Groff

tecture to increase their effectiveness, and establishing supplementary institutions like the IACC and an international judicial training institute. She stated that her proposal of turning the International Criminal Court (ICC) into an institution under the Charter with compulsory membership for all members of the United Nations is perhaps one of the more challenging ideas in the paper. However, we live in a new era with new challenges, and these proposals would enhance our institutional capacities to grapple with these risks, based on agreed fundamental international norms.

EU supports international institutional reforms

On the one hand, many hopes rest on the EU when it comes to strengthening multilateralism and establishing better global governance structures. On the other hand, the Nobel Committee has already pointed out, in its decision to award the 2012 Nobel Peace Prize to the EU, that the EU at that time was undergoing grave economic difficulties and considerable social unrest. The consequences of the coronavirus pandemic and the war in Ukraine have overshadowed these fundamental problems within Europe and are likely to intensify them in the medium term. In view of the current situation, the question is to what extent the EU can play a proactive role as a community of like-minded states to work constructively on the realisation of the reform proposals to make the multilateral system fit for the future.



sef: Policy Lunch May 2022 (from left): Sascha Werthes (Chair), Maja Groff, Andrej Auersperger Matic and Nanjala Nyabola in the background

law-based international order, which should be reflected in a concrete and bold reform agenda to stabilise, buttress and “future-proof” our current global governance. However, we are not thinking deeply enough about how our global architecture could be strengthened. One of the key challenges is that many policy-makers have still not internalised the gravity of the manifold risks and problems.

Andrej Auersperger Matić, Legal Adviser at the Legal Department of the European External Action Service, outlined two different aspects with regard to the role of the EU: on the one hand, the EU certainly supports multilateral institutions and has its own institutions to support international law. The EU has therefore always been at the forefront in establishing international standards and supporting cooperation. The ICC, as an example, is supported diplomatically and financially by the Union. However, it is often difficult to find support for multilateralism in third countries. On the other hand, various practical issues turn up when strengthening international institutions: for example, when individuals are given the opportunity to file complaints at institutions such as the ECHR, this can lead to a very substantial workload for the Court and a very high number of inadmissible cases. And while the idea of an IACC sounds very appealing, it is not clear how, for example, suspects could be arrested and brought to justice. However, it should be clear that the EU already supports international institutions and in fact also some of the proposals made by Ms Groff; the possibilities to implement them will depend to a large degree on future developments in the next couple of years, particularly regarding the war in Ukraine.

Multilateralism needs more international cooperation

Nanjala Nyabola, writer, researcher, and member of the UN High-Level Advisory Board on Effective Multilateralism, described another, maybe bigger challenge for multilateralism: Europe is failing to see the rest of the world. In this regard, the pandemic and the discussions about the global distribution of vaccines undermined any sense of internationalism and left many Africans disappointed because of the lack of solidarity from Europe. This also led to several countries not supporting the sanctions imposed by the West against Russia and thus highlighted a risk to multilateralism.

However, if we want to support cooperation, we have to build a system that works for everybody, not only for the power centres of the world. Ms Nyabola emphasised that “we get stuck between the world we live in and the world we want to create”. In this regard, she also highlighted that there are various wars currently taking place on the African continent, with all of them receiving much less attention than the current war in Europe.

How to move forward

The discussion focused inter alia on the ICC being a rather novel institution, whose establishment has

also been pushed by civil society. However, there is still a great demand for improvement of the Court and its mechanisms and processes. In this regard, experiences from regional courts can be analysed and scaled up. Yet, as many of the discussed proposals need a two-thirds majority and the acceptance of all five permanent members of the UN Security Council, the question which arises is how likely it is that such innovative and forward-looking approaches can become reality. In addition, it was mentioned that we have to deal with a highly fragmented international system with different regimes for different topics, while cooperation and interdependent coherence between the regimes often remain poor.



Andrej Auersperger Matić

It was also pointed out that various regional or sectoral multilateral frameworks suffer from a lack of legitimacy and accountability, which has repercussions for the desired reform of the UN system. It might therefore make sense to deal with these sectoral challenges first before striving to reform the global system. The international trade system was mentioned as an example and, notably, WTO reform, which has been blocked in recent years by the US administration.

The panel also discussed the issue of how to deal with spoilers and resisters when trying to reform the UN system. Ms Groff stated that spoilers can be found not only in governments of authoritarian states but also among the intelligentsia, who do not yet see the challenges of the 21st century as needing a stronger global governance response. It is a matter of cooperating with the people and institutions in favour of multilateralism in the “spoiling” countries and, furthermore, it is a matter of information and communication; people must understand the challenges, their interlink-

ages, and the importance of global institutions in dealing with these challenges. China was mentioned as one potential spoiler in this regard. Ms Nyabola advocated for more attention to be paid to domestic policies and mentioned the differences in the attitudes of the current and the previous US administration towards the ICC as an example.



As Werthes summed up, one of the conclusions drawn in the discussion was the insight that it sometimes only needs a coalition of pioneering international actors to initiate and take the first steps in progressive processes. The Ottawa Process (to ban anti-personnel mines), the path to the Rome Statute to establish the International Criminal

Court and the former Human Security Network could serve as examples. Accordingly, the Alliance for Multilateralism initiative was discussed as a step in the right direction.

Omnilateralism as the next step?

Speaking from the audience, Mr Wolfgang Pape made a plea for omnilateralism, which describes a global governance structure for all countries and all actors within these countries. Civil society is given a particularly strong role in this idea and is envisaged to be part of international institutions.

Another participant also recalled that currently there is still a considerable lack of agency or leadership from the United Nations. In this regard, he mentioned that there is still an absence of solutions to the current global food crisis as a consequence of the war in Ukraine. A stronger role for the UN is also hindered by the fact that international law is bound to domestic policies and politics, which raises the question at what point international law should intervene.

The discussion was closed by Ms Nyabola, who again emphasised the disappointment among African diplomats at the lack of solidarity during the pandemic. She noted that there is a gap to be closed: there are many good ideas around, but the action needed to implement these ideas is still missing.