

Report on the conference entitled 'Model Institutions for a Sustainable Future' for the Konrad Adeanuer Stiftung

April 24-26. 2014, Budapest

This is to report on the major achievements and professions outcome of the Conference entitled 'Model Institutions for a Sustainable Future' organized by the Office of the Commissioner for Fundamental Rights held in Budapest 24-26 April 2014.

The main objective of the conference was to understand the unique characteristics of the relevant national institutions entrusted with promoting intergenerational solidarity as well as the legal principles and processes underlying their work.

Dr. Marcel Szabó, the Ombudsman for Future Generations therefore invited the representatives of the national bodies designed for the promotion of sustainable development as well as the needs of future generations together with most distinguished scholars of this field from the international arena. Altogether 76 scholars and practitioners and representatives of Embassies attended the conference whereas 41 speakers presented his or her ideas at the event and 13 organizers from AJBH were present solely dedicated for the smooth running of the conference. Due to some last minute health considerations Peter Davis, the Welsh Commissioner for Sustainable Future as well as Maja Göpel, the head of office at Wuppertal Institute for Climate, Environment and Energy and Yulia Levashova Researcher at the Center for Sustainability of Nyenrode Business University in the Netherlands had to cancel their participations,

The panels encouraged discussion among participants of different expertise providing opportunities to link theory and practical implementation. The conference focused on the legal aspects of the protection and promotion of the interests of future generations on the basis of the principles of intergenerational law. The conference shed light upon how national bodies may contribute to the efforts of the United Nations in protecting the interests of future generations.

In the followings a more detailed description will be provided to demonstrate the subject matter of each and every panel and to highlight the most interesting outcome thereof. Each panel was followed by a discussion providing room for questions and comments that was moderated by the respective chairman.

1. day (24 April, Thursday)

Following the registration and the welcome Lunch offered in the building of the Parliament of Hungary, first László Székely, the Commissioner for Fundamental Rights took the floor to made his **welcome speech** at the Vadász room of the Parliament. Subsequently, László Kövér, the Chairman of the National Council for Sustainable Development and Speaker of the National Assembly of Hungary started addressing the opening remarks. He was followed by Péter Paczolay, the President of the Constitutional Court of Hungary who highlighted the Hungarian basic law's provisions relating to the safeguarding of the interests of the future generations as well as the right to a healthy environment enshrined therein. Subsequently, Dr. Marcel Szabó read aloud the message sent by the UN

Secretary-General specifically to our conference. He was succeeded by Csaba Kőrösi, the UN Ambassador of Hungary who is at present the co-chair of the Open Working Group of the UN. Mr. Kőrösi briefly summarized this endeavor aiming at developing Sustainable Development Goals under the auspices of the UN system. The opening remarks was closed by Frank Spengler, the Resident Representative of the Konrad Adenauer Stiftung in Hungary who also welcomed the participants of the event.

The **keynote speeches** were held by Judge C. G. Weeramantry, the former Vice-President of the International Court of Justice and Edith Brown Weiss, Francis Cabell Brown Professor of International Law at Georgetown Law University. The address of Professor Weeramantry dealt primarily with the unprecedented threats posed to the human future today. The major threats are carbon emissions to the atmosphere, pollution of the water resources, testing of nuclear weapons, surreptitious disposal of nuclear waste, deforestation, endangering of fauna and flora, uncontrolled disposal of industrial waste and depletion of earth resources, which are proceeding at an ever increasing rate. He raised awareness on the need for taking immediate and effective global action in order to preserve the Earth for our children and grandchildren. He stressed the importance of long-termism in governance and that the principle of transparency at every level.

In her keynote address, Professor Brown Weiss outlined the major criteria that should preferably fulfilled by all prospective national sustainable development bodies. She also called for integrating the most innovative and modern ways of online media and communication channels for engaging young people in the endeavour of protecting the natural environment.

The subsequent panel – named as **'Introduction of the institutions: theory and practice'** – offered comprehensive insights into the objectives and functioning of every national institution named by the UN Secretary-General as possible models in its Report entitled 'Intergenerational Solidarity and the Needs of Future Generations'. The speakers were the followings: Paula Tiihonen, counselor of the Committee for the Future in Finland, Valerie Wilms representative of the Parliamentary Advisory Council on Sustainable Development in Germany, Jim McKenzie, principal of the Sustainable Development Strategies, Audits and Studies, Office of the Auditor General of Canada and Shlomo Shoham, the former Commissioner for Future Generations in Israel as well as Knut Haanes Deputy Ombudsman for Children from Norway presented his institution's mission in detail. The presentation of Peter Davies, the Welsh Commissioner for Sustainable Futures was circulated among the participants in hard copy while Morgan Williams, the former Parliamentary Commissioner for the Environment in New Zealand sent a written message to the conference which was read aloud.

Subsequently Marcel Szabó, the Ombudsman for Future Generations in Hungary outlined the most important powers his institution currently is invested with under the Hungarian laws in force. He went on to articulate that this conference provides a unique possibility to create a network between the model institutions serving as a platform for future cooperation. The idea gained an overwhelming support amongst the participants. With regard to this, Mr. Szabó offered to undertake the development of a shared website for the model institutions for reinforcing mutual cooperation, disseminating recent publications and encouraging other national actors and the international arena to take up the role of the protection of future generations in a way best suited for their individual character.

Marcel Szabó also introduced the first draft of a memorandum that was previously circulated amongst the participants. A drafting committee was elected from the participants interested entrusted with the collecting and incorporation of any further suggestions as to the exact language of the memorandum that was to be adopted at the end of the present conference.

The last speaker of this panel was Catherine Pearce, the director of the Future Justice Department at the World Future Council who briefly presented the chief objectives and the mission of her organization and expressed her great enthusiasm to participate in all forms of future cooperation.

The official program was closed by a dinner in the Parliament that offered a great opportunity for a continued discussion on the topics presented beforehand.

2. day (25 April, Friday)

The first panel (*What should we protect?*) was chaired by Shlomo Shoham, the former Commissioner for Future Generations in Israel. The first panelist Halina Ward, the representative of the Alliance for Future Generations made a presentation entitled 'Future generations as a counterweight'. The second lecturer was Marisa Quaresma dos Reis, an Associated Research Fellow of the Lisbon Centre for Research in Public Law, who dealt with the difference between the individual rights of members of future generations and the collective rights of future generation. In addition she shed light upon some relevant results of the judicial activism of the Portuguese Constitutional Court. The last panelist, John Lotherington, the chair of the Foundation for Democracy and Sustainable Development concentrated on the historical perspectives of the urgent need for action to protect the needs of future generations. The presentations were followed by 30 minutes discussion.

The focus of the **second panel was the human rights approach for the environment** and for the benefit of future generations. The first address was made by Dinah Shelton Manatt/Ahn Professor of International Law at the George Washington University Law School who is a leading expert of this field. Professor Shelton outlined the main difficulties faced by the human rights courts in adjudicating environmental matters and concluded that human rights protection has a valuable role to play in protecting the environment. However, she also explained that this role, in all likelihood, remains limited due to the inherent characteristics of the human rights approach and the subject matter of environmental cases. The second speaker was Simon Caney, the co-director of the Oxford Martin Programme on Human Rights for Future Generations at the University of Oxford. In his speech, Mr. Caney was focusing on the institutional mechanisms for protecting the human rights of future generations. The last panelist was Axel Gosseries, professor at Louvain University who explained some aspects of promoting equality between birth cohorts. The presentations were followed by 30 minutes discussion.

After the lunch served at the Parliament, the participants were invited for a guided tour in the building of the Parliament. Parallel to this, a press conference was held with the participation of Judge Weeramantry, Professor Shelton, Professor Ludwig Krämer, Halina Ward and Marcel Szabó.

The conference gained an overall and wide media coverage. Correspondents of several domestic media were present and the Hungarian correspondent of BBC as well as two Dutch correspondents also attended the conference.

The **third panel** examined the question whether a **scientific basis can be provided for sustainability rules**. The session was chaired by Valerie Wilms whereas the panelists were Günther Bachmann, the Secretary General of the Council for Sustainable Development from Germany, János Zlinszky, biologist who is at present serving as a counselor of Permanent Mission of the Republic of Hungary to the United Nations and Wybe Douma, a senior researcher at the Asser Institute Centre for International and European Law. Mr. Bachmann addressed the role of transformative knowledge. Mr. Zlinszky explained the fundamental differences between the viewpoints of science and policy-making, concluding that science represents the non-negotiable principles in environmental decision-making while policy-making is always about the negotiable variables in this process. Finally, Mr. Douma focused on the operationalizing the precautionary principle which should define the roles of scientists and legislators in dealing with uncertainty. The presentations were followed by 30 minutes discussion.

The **fourth panel** was entitled '**Constitutional democracies: principles and challenges**'. Accordingly, it comprised panelists focusing on the constitutional aspects of the promotion of the interests and needs of future generations. After the initial thoughts of the chair, Marcel Szabó, Konrad Lachmayer, the research chair at the Hungarian Academy of Sciences, Institute of Legal Studies presented his idea on the temporality of constitutional law. He was followed by Joerg Chet Tremmel, associate professor at the University of Tuebingen who argued for an extended separation of powers model as the theoretical basis for the representation of future generations. The closing address was set forth by András Jakab, the director of the Institute for Legal Studies at the Hungarian Academy of Sciences who was focusing on the problems raised by ever-growing pension systems in constitutional democracies from a sustainability point of view. The presentations were followed by 30 minutes discussion.

The **fifth panel** was covering the **possible roles of individuals for the protection of future generations**. The session – chaired by Paula Tiihonen – consisted of three panelists. First, Ludwig Krämer, Director of ClientEarth's European Union Aarhus Centre and professor at the University of Bremen who made a presentation on the individual's role in terms of sustainable development. Second, **Sándor Fülöp**, the former Ombudsman for Future Generations presented his previous experiences on capacity-building and the civil society's role in public participation. Finally, **Renato Machado**, the federal prosecutor at the Public Ministry of Brazil outlined the institutional frames in which he is working in Brazil and introduced the basic types of cases the Public Ministry is dealing with in relation to the needs of future generations. The presentations were followed by 30 minutes discussion.

The program of 25 April was closed with a dinner held on a sightseeing boat on the Danube. During the dinner, two fresh initiatives for the establishment of an Ombudsperson for Future Generations in the Netherlands and in Norway presented themselves. On the one hand, Jan van de Venis, the director of Legal Desk, WaterLex and the Chair of Worldconnectors WG Dutch Ombudsperson for Future Generations told his story on their efforts of establishing a similar national body for sustainable development. On the other hand, Siv Maren Sandnæs, the deputy Chair of the Norwegian organization Spire presented a brief history and achievements of a similar initiative in Norway.

3. day (26 April Saturday)

The morning panel was addressing the **issue of public participation**; namely the role of communities in the protection of future generations. The session was chaired by Gábor Bartus, the Secretary General of the National Council for Sustainable Development and a lecturer at the Department of Environmental Economics, Budapest University of Technology and Economics. The first panelist was Jonas Ebbesson, the chair of the Aarhus Convention Compliance Committee, who provided insights into the functioning and achievements of the Aarhus Convention. Robert Unteregger, the co-founder of the Swiss Future Council Foundation argued for the pivotal role of education in sustainable development. He also presented the system of so called future councils established in Switzerland. The third speaker was Gyula Bándi, Jean Monnet Professor at the Pázmány Péter Catholic University, Budapest whose presentation was focusing on the reasons and means of public participation both from a theoretical and a practical point of view. Finally, Julia Pitts, the senior manager of the Office of the Commissioner for Sustainability and the Environment presented the key mission of her institution and the job that has been done in Australia to promote long-term thinking in policy-making. The presentations were followed by 30 minutes discussion.

The **second panel** was entitled as '**National sustainable development institutions and public international law**'. The chair was Péter Kovács member of the Constitutional Court of Hungary and the head of the Public International Law Department at Pázmány Péter Catholic University. The first panelist was Markus Gehring, the deputy director of the Centre for European Legal Studies (CELS) Faculty of Law, Cambridge University who made a presentation on the legal status of the principles of sustainable development and solidarity in the EU and international law. The second speaker was Christina Binder, associate professor of International Law at the Department of European, International and Comparative Law at the University of Vienna who explained in detail the possible role of nation sustainable development institutions from the perspectives of the European framework of human rights protection. The presentations were followed by 30 minutes discussion.

The **third panel** dealt with the **law and economics of sustainable development** and was chaired by Jim McKenzie from Canada. In the panel Gábor Bartus presented his speech first, focusing on the economic aspects of sustainability. He was followed by Marie-Claire Cordonier Segger, a Senior Legal Expert at the International Development Law Organization and fellow of the Lauterpacht Centre for International Law at the Cambridge University. Dr. Cordonier-Segger presented an enumeration of legal innovations that were implemented in developing countries for achieving the global green economy. The presentations were followed by 30 minutes discussion.

In the **closing remarks** of Marcel Szabó, the amended and finalized draft of the memorandum was presented to the conference. Mr. Szabó also took note of the written Statement made by Judge Weeramantry and emphasized that it provides useful insights as to the most urgent problems humanity faces today. Finally, Mr. Szabó thanked all participants for their active participation at the panels and for their contributions made in subsequent discussions. He expressed his intention for fostering future cooperation of the participants and for making the initial steps for starting the operation of the network.