

# Universal Periodic Review

## On the road to implementation



# The Follow-up Programme:

## On the road to implementation



*Promoting and strengthening  
the Universal Periodic Review*  
<http://www.upr-info.org>

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### Introduction

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21

## 1. Challenges and opportunities to improve human rights

The Universal Periodic Review (UPR) is a three-stage process including a review by UN member States, the implementation of the recommendations received during the review, and an assessment of the implementation at the next review four and a half years later.

Its second stage, called “Follow-up”, is the key step as it is the one leading to the concrete realisation of the UPR goal: the improvement of the human rights situation on the ground. The success of this phase also determines the efficiency and credibility of the mechanism and demonstrates States’ engagement in promoting and strengthening human rights.

It is therefore of primary importance to obtain accurate information on the status of the implementation of recommendations. To this end, both States and civil society are key actors in the process and should be actively involved. Similarly, in order to better prepare for the third phase, the assessment of the participation of a State



under Review (SuR) at the next review, it is necessary to obtain information about implementation before the second cycle.

Recommendations are the most visible outcome of Working Group sessions. However, the only purpose of making recommendations in Geneva is to get them implemented. It therefore requires monitoring State's activities, and reporting back to domestic civil society or recommending States.

In order to strengthen the UPR process, *UPR Info* started the "Follow-up Programme" in 2011 by contacting and compiling data from every stakeholder from countries that were going to be reviewed for a second time from January 2013 to May 2014 (UPR sessions 15 to 19), amounting to 66 States.

The results of this research, conducted over the course of one year, are hereby presented. The methodology employed is elaborated at the end of the document.

### 1.1. Quick overview

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Besides the number of international human rights treaties that have been ratified, the UPR has proven to be an effective awareness-raising and advocacy mechanism. Above all, the UPR is an opportunity for civil society to discuss human rights issues with its State. For example, in Tonga, approximately 50 organisations took part in broad consultations organised by the government in preparation for its Review. In Costa Rica, recommendations on implementing a national plan of action created a discussion momentum between civil society and the State. In the United Arab Emirates, the government set up a new human rights department at the Ministry of Foreign Affairs thanks to the UPR. The number of new laws adopted in the aftermath of the UPR is strongly indicative of its potential.

Indeed, this study shows encouraging outcomes. Most strikingly, our research has found that at mid-term, approximately 40 percent of recommendations are either partially or fully implemented. In other words, 2 and half years after the Universal Periodic Review, States have started implementing 40 percent of their recommendations. Taking into account the huge number of recommendations

## On the road to implementation



received during the thirteenth UPR session (approximately 150 recommendations per State) and the extent to which recommendations are being implemented at mid-term, the UPR is an effective tool to improve human rights situations on the ground.

In addition, according to our study of the States reviewed at the thirteenth UPR session, the States under review answered to 85 percent of recommendations received. While 100 percent should be the actual aim, it demonstrates that the UPR undoubtedly has emerged from its chrysalis.

This study will present the Follow-up Programme's quantitative outcomes in Chapter Two, qualitative outcomes in Chapter Three, and perspectives and assessments on the thirteenth UPR session in Chapter Four. The methodology is explained in Chapter Five.

Geneva, October 2012



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### 2. Two years later...

The information provided within this report is unique. No such comprehensive research has ever been conducted on how UPR recommendations are implemented on the ground. Obtaining this information has required contacting every UPR actor from every country on every recommendation.

Basing our study on 253 contributions from civil society, 6 contributions from National Human Rights Institutions and 7 States' mid-term reports, *UPR Info* is able to provide updated information on 3'294 recommendations out of 6'542 made to 66 countries reviewed. As a result of the comments stakeholders have provided us, 66 Mid-term Implementation Assessments<sup>1</sup> (MIA) have been published in total, one per country which will be reviewed for the second time from January 2013 to April 2014.

Undoubtedly, quantitative assessments are limited in nature. Data presented within this study should be read with awareness that the UPR is a dynamic process and therefore the status of implementation is constantly changing: it is not a current state of implementation of every UPR recommendation, but rather an overall assessment on the implementation of UPR recommendations for **one third** of the world **at mid-term**. The aim is to shed light on the progress and practices achieved in alignment with advancing human rights through the UPR mechanism.

#### 2.1. Basic facts

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*UPR Info* developed an index categorising the implementation level achieved by the State for the recommendations received at the UPR. Every recommendation is assigned a level of implementation: not implemented, partially implemented or fully implemented based on the index criteria.

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<sup>1</sup> MIAs can be consulted at Follow-up Programme's website: <http://followup.upr-info.org/>

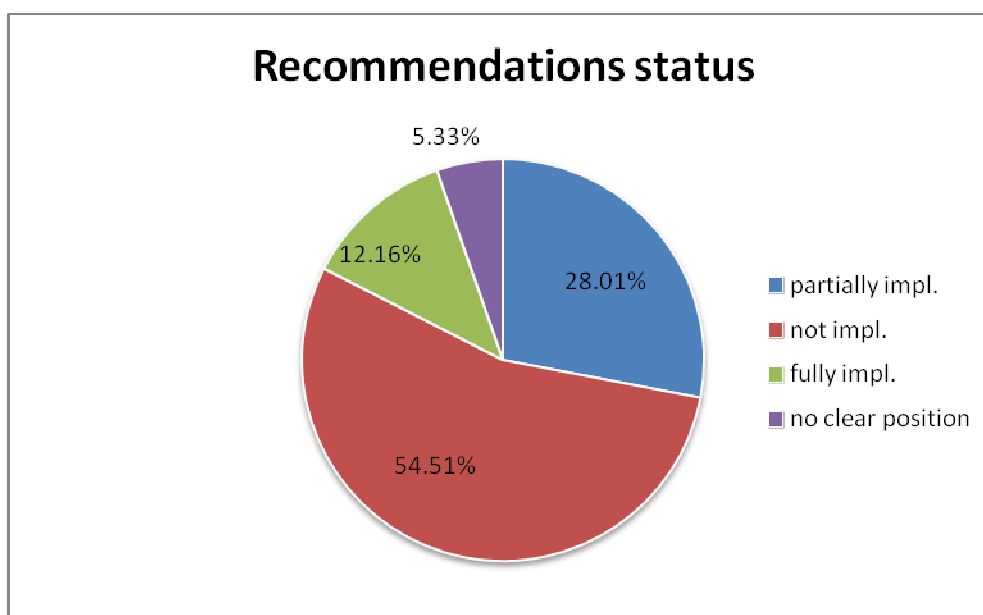


“Not implemented” indicates that no action has been undertaken so far. “Partially implemented” means that the State has taken some action to improve the human rights situation. Finally, “fully implemented” reflects full compliance with a recommendation. This status is hard to achieve, and often denotes the ratification of international instruments since progress of such kind can be objectively and definitively measured.

### 2.2. Implementation status

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Out of the 3'294 recommendations commented upon by stakeholders, 391 recommendations have been fully implemented (12.16 percent of the total), 859 have been partially implemented (28 percent) and 1884 have not been implemented at all. On 160 recommendations, the updates we have been provided with have not been useful in assessing the implementation status of the recommendation.



This figure shows that while States triggered actions to comply with concerns raised at the Human Rights Council at mid-term for 40 percent of the recommendations, no action at all was undertaken for 55 percent of recommendations.



We need to be mindful that the implementation status highly depends on who commented upon the recommendation assessed. On some MIAs, domestic civil society did not participate in the Follow-up Programme, while the State provided ample data on the implementation. As a result, recommendations are usually assessed as either “fully” or “partially” implemented, since States rarely claim to be inactive.

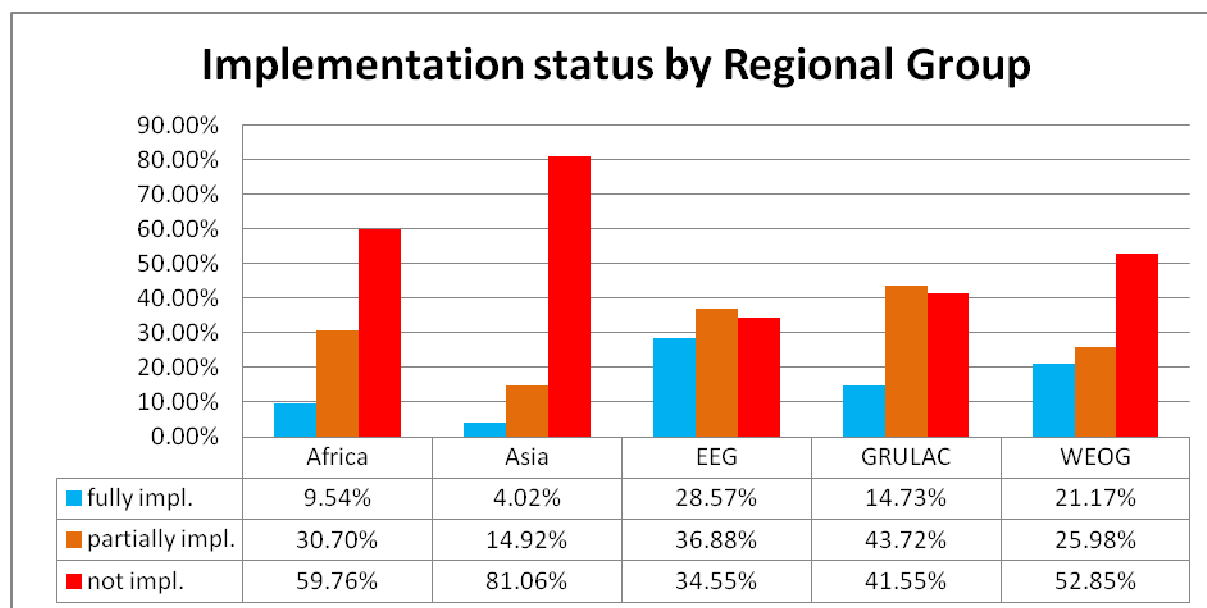
In this chapter, only commented recommendations commented upon with the status of “fully”, “partially” or “not” implemented are considered.

### 2.3. Implementation status by regional group

When it comes to splitting the implementation status by regional group, it is possible to find out which regions were active in implementation by mid-term.

At one extreme, Asia is the region where the least number of recommendations have been implemented. At mid-term, 81 percent were not implemented at all and 19 percent were either partially or fully implemented.

At the opposite end of the spectrum, in the Eastern European Group (EEG) is a region where only 35 percent of recommendations have not been processed at all, while 65 percent were implemented.



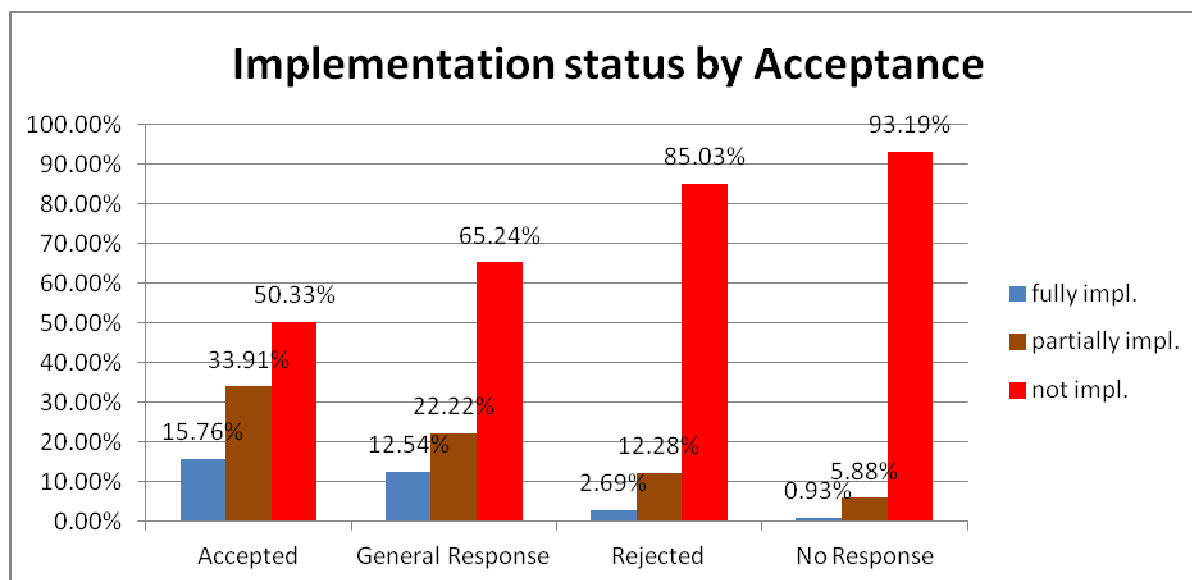


Generally speaking, at mid-term, only the Latin American and Caribbean Group (GRULAC) and EEG have begun implementing over half of recommendations (58 and 65 percent, respectively). WEOG was nearly to half (47 percent).

### 2.4. Implementation status by acceptance

Before the adoption of the Working Group report in the plenary session, States are encouraged to announce whether they accept or reject the recommendations they received. OHCHR tags State's responses as either "noted" or "accepted". Unfortunately, while such a categorisation scheme has the great advantage of avoiding the fact that recommendations are rejected by States, it does not reflect the State's real intention as expressed during the UPR.

Using categories internally employed at *UPR Info*<sup>2</sup>, we notice that accepted recommendations have more of a chance of being implemented (action was taken for 50 percent of them), and both rejected and recommendations with no response are barely taken into account by States. While this result is obvious (strong recommendations have less of a chance to be implemented), it confirms that data collected under the Follow-up Programme is correct.



<sup>2</sup> States' responses are categorised with the following terms: "Accepted", "Rejected", "General Response" and "No Response".



### 2.4.1. Implementation of rejected recommendation

The previous figure demonstrates that even rejected recommendations are implemented, since action is taken for 15% of them (both fully and partially implemented).

In detail, fourteen countries took action on a number of rejected recommendations: Albania (2 recommendations), Cameroon (1), Canada (6), Chad (3), China (12), Ethiopia (3), Germany (3), Malaysia (9), Mexico (3), Romania (3), Serbia (1), Turkmenistan (1), Uzbekistan (1) and Viet Nam (4). This “unexpected” result was notably observed for “Death penalty” issues for China, “Indigenous people” for Canada, “Asylum-seekers - refugees” for Chad, “Human rights violations by State agents” for Mexico, “Migrants” in Romania, “NHRI” for Ethiopia, “corporal punishment” in Albania. Examples are numerous, totaling more than 50 recommendations rejected but implemented anyway. If we take into account that this number is solely based on one third of countries worldwide (the scope of the Follow-up Programme), we could extrapolate that more than 150 UPR recommendations are or will be implemented even though they have been rejected by States.

There are two main ways to explain such implementation in spite of prior rejection:

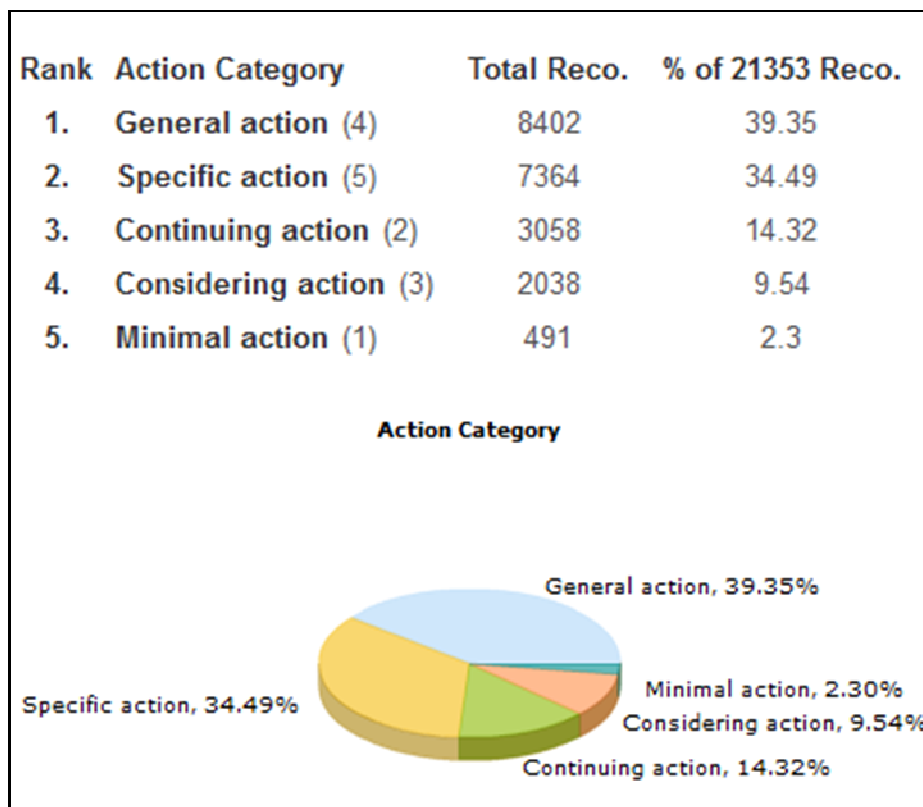
1. States are scared of having such discussions at the international level, where the feeling of being inspected is acute; once back home, the international pressure is diluted, the framework is softened. Thus, States rejecting recommendations at the UPR keep their hands free and avoid to be bounded to obligations they are unsure whether they can be implemented. This is a precautionary principle;
2. Civil society seizes the opportunities raised by the UPR to engage a broad in-country discussion and to start a nation-wide advocacy using the media; in other terms, the UPR is a chance to trigger new debates.

It must be therefore noted that without the civil society action (both at international and national level), rejected recommendations would be hardly implemented.



2.5. Implementation status for action

The Action Category is a unique feature of *UPR Info's* Database of UPR Recommendations. Developed by Professor Edward R. McMahon of the University of Vermont with the support of *UPR Info*, it creates a new approach to recommendations by looking into the type of action requested. It ranks recommendations on a scale from 1 (minimal action) to 5 (specific action)<sup>3</sup>.



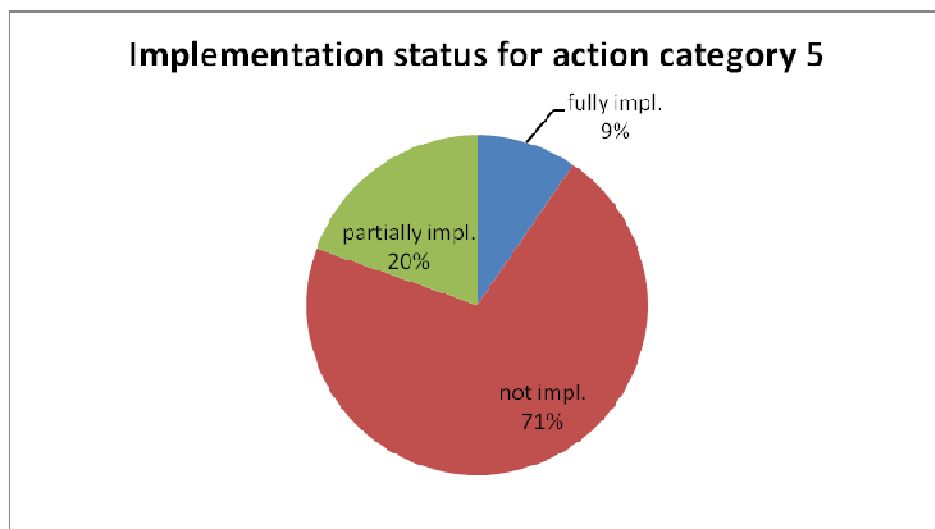
This ranking scheme enables us to cluster recommendations by “strength”. During the entire first cycle, 35 percent of recommendations were of category 5, which denotes that approximately one third of the recommendations made at the UPR have the precision required to allow easy further monitoring. A recommendation asking to “continue to improve national mechanisms for the promotion of human rights” is hard to assess. Such a recommendation would be of category 2. Conversely, a recommendation calling to “establish a human rights unit within the Ministry of

<sup>3</sup> Further explanation is available in the methodology section of this document.

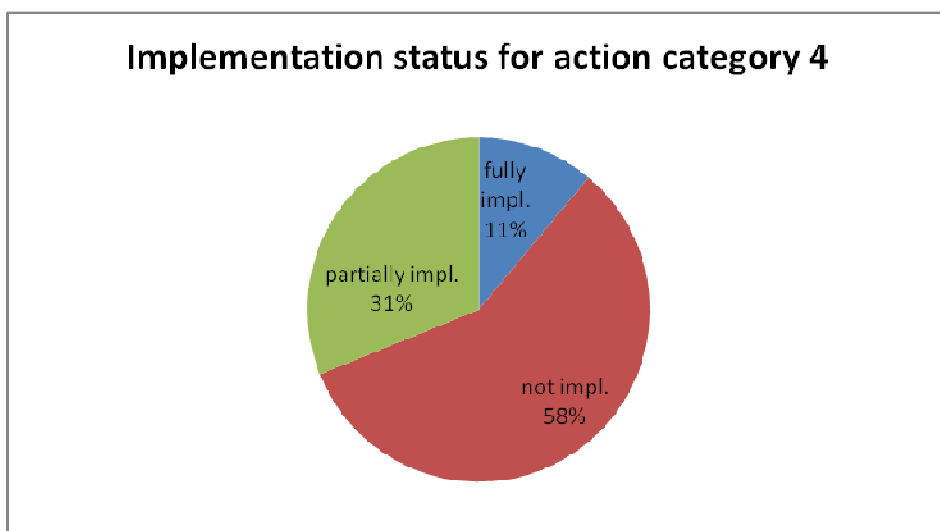


Justice” would be of category 5; it is easy to evaluate, and if fulfilled, has the potential to remarkably improve the human rights situation. The latter kind of recommendation has to be promoted within the UPR system.

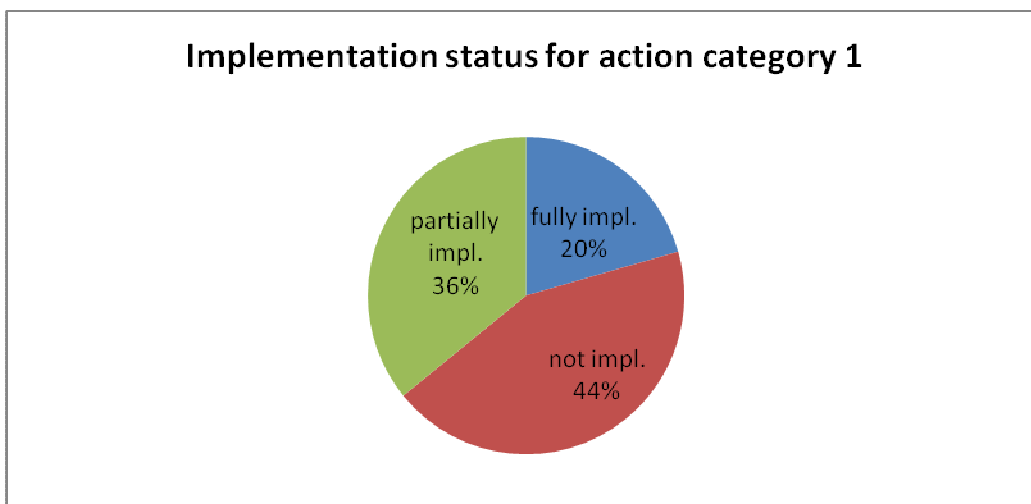
At mid-term, in between the two Reviews, as expected recommendations of category 5 are implemented the least, while recommendations of category 4 are more likely to be implemented. The “not implemented” status steadily decreases until category 1.



Recommendations of category 4 are 13 percent more likely to be implemented:



The least strong category (1) is the most likely to be implemented, as only 44 percent of them are not implemented:

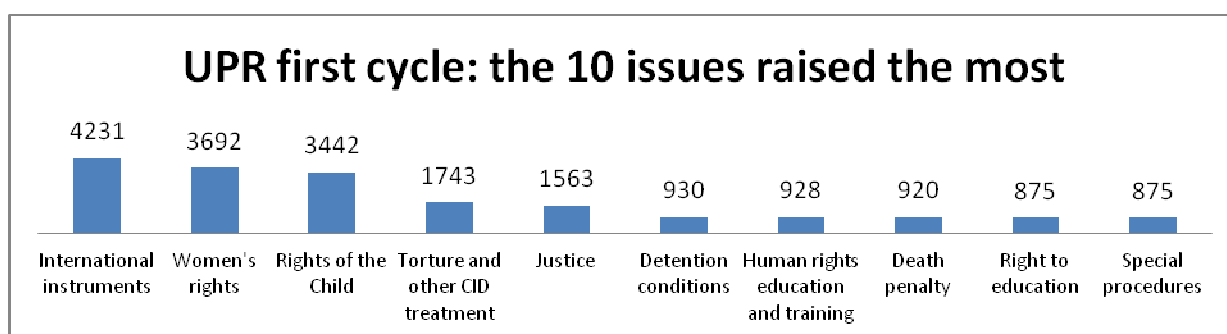


The difference of implementation statuses depending upon the action category of the recommendation is outstanding. This leads us to conclude that the level of action entailed by a recommendation has a tremendous impact on whether or not it is implemented. Thus, when assessing the implementation of recommendations, action categories must be taken into consideration.

## 2.6. Implementation by issues

UPR Info's database of UPR recommendations and voluntary pledges<sup>4</sup> is a tool that enables stakeholders to quickly identify the issues pertaining to recommendations. Through an exclusive list of 54 issues, every recommendation is tagged with one or several issues.

The most raised issues during the whole first cycle were the following ten:



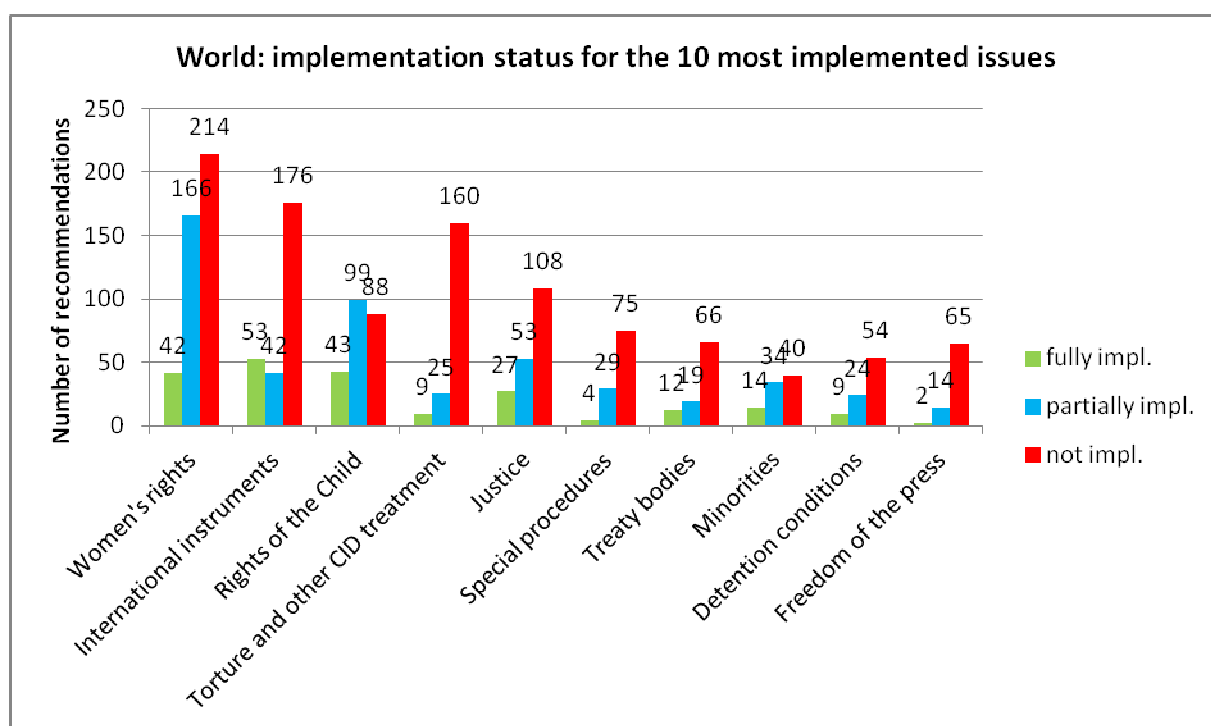
<sup>4</sup> Available at the following web address: <http://www.upr-info.org/database>





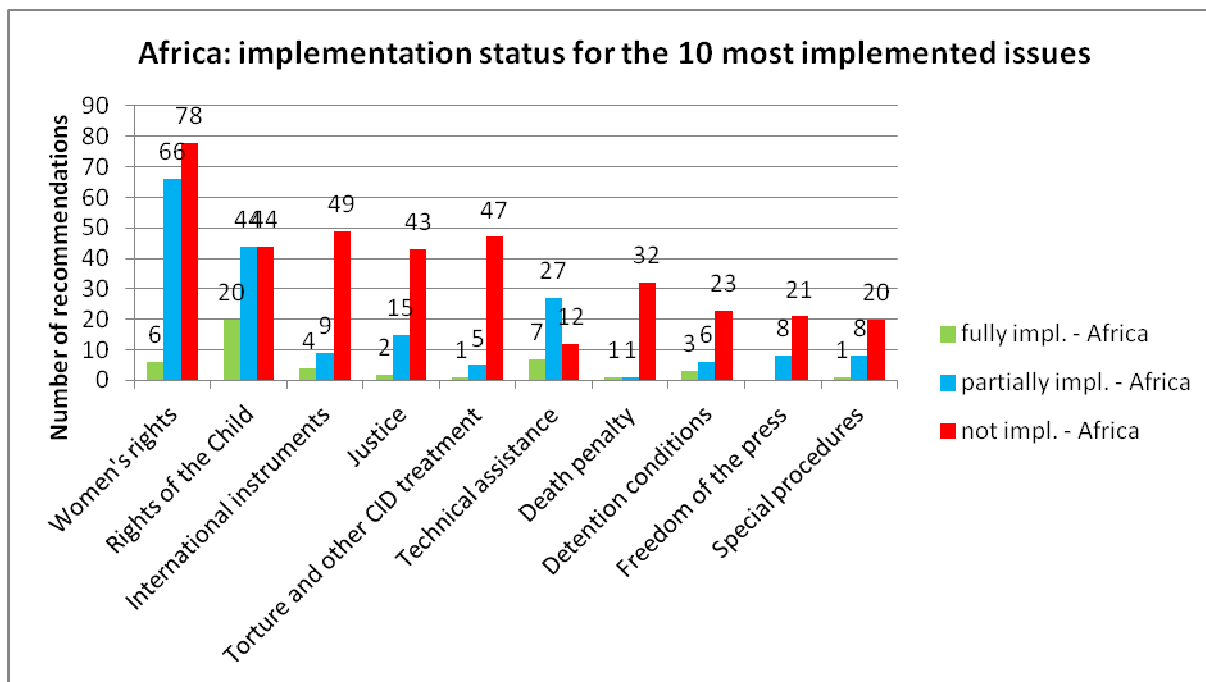
As is evident from the chart above, “International instruments”, “rights of the child” and “women’s rights” are by far the top three issues raised at the UPR.

Unsurprisingly, the very same triptych is found when assessing the implementation of recommendations at mid-term: 95 recommendations<sup>5</sup> relating to “international instruments” have been either fully or partially implemented (plus 176 recommendations not implemented), 142 concerning “rights of the child” (88), and 208 regarding “women’s rights” (214). More recommendations lead to more implementation opportunities.

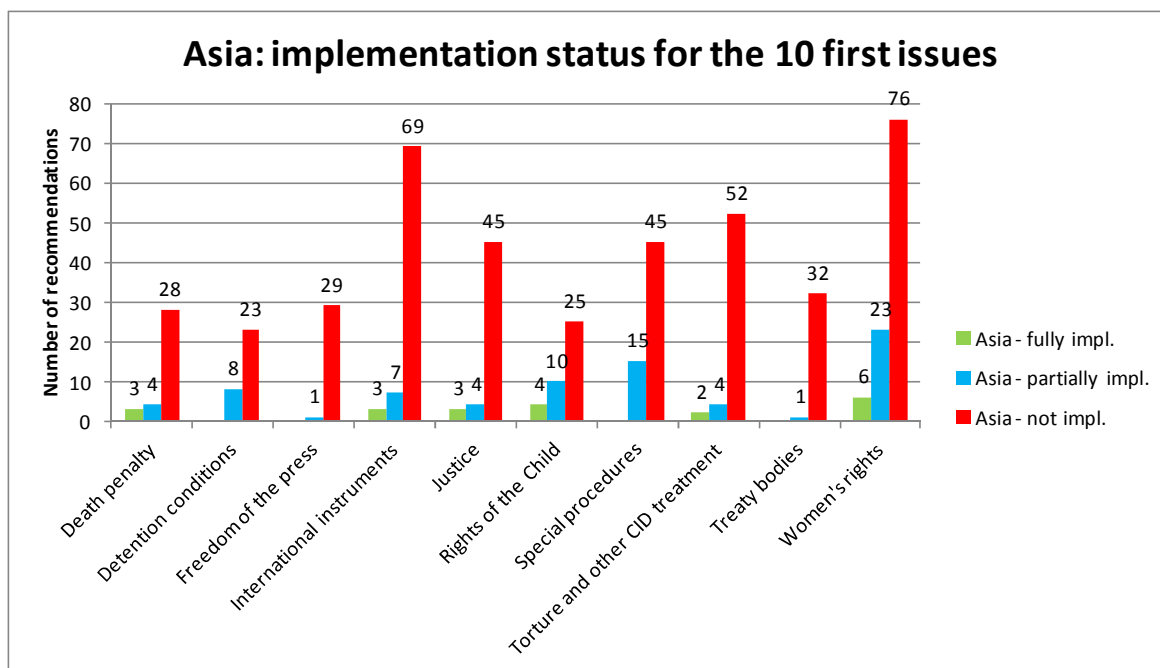


In more details and by regional group, in Africa the distribution remains very similar (“women’s rights”, “rights of the child”, but not “international instruments”), except that recommendations relating to “technical assistance” emerge:

<sup>5</sup> As recommendations can pertain to many issues (“ratifying CEDAW” is both international instruments and women’s rights), percentage cannot be used in following figures.

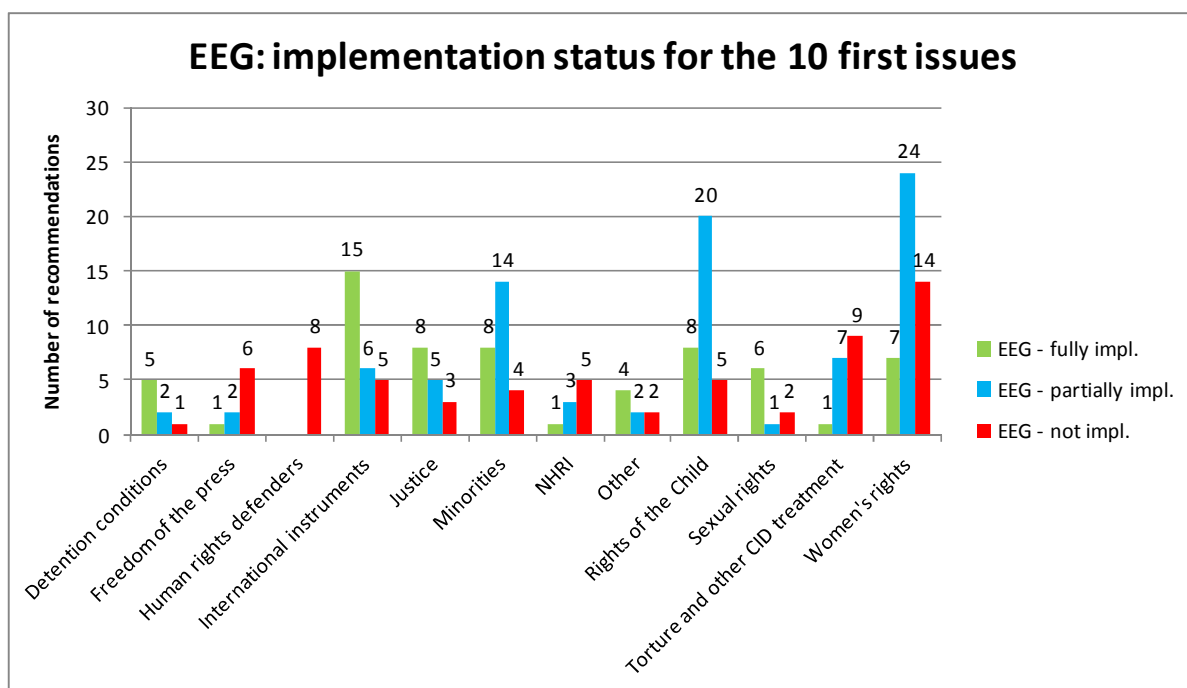


Asia (the regional group which implemented the least number of recommendations), has several recommendations concerning “torture and other CID treatment” which were implemented at all, but shows interesting improvements on “special procedures”:

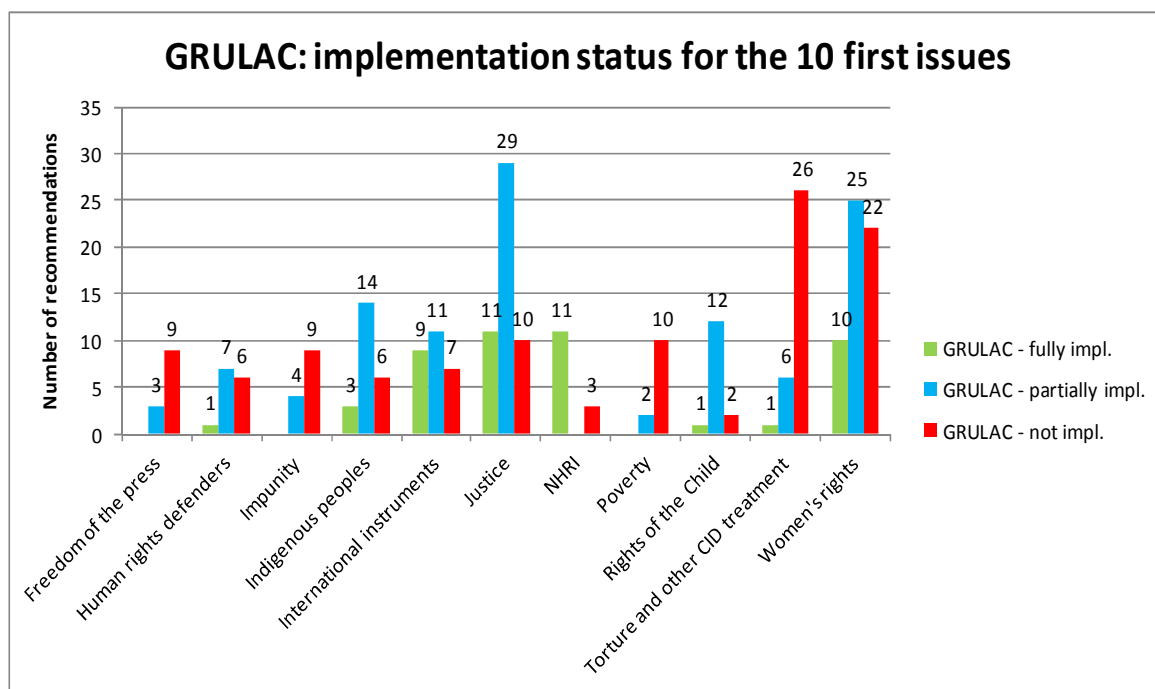




The Eastern European Group has an encouraging implementation record on “minorities” issues:

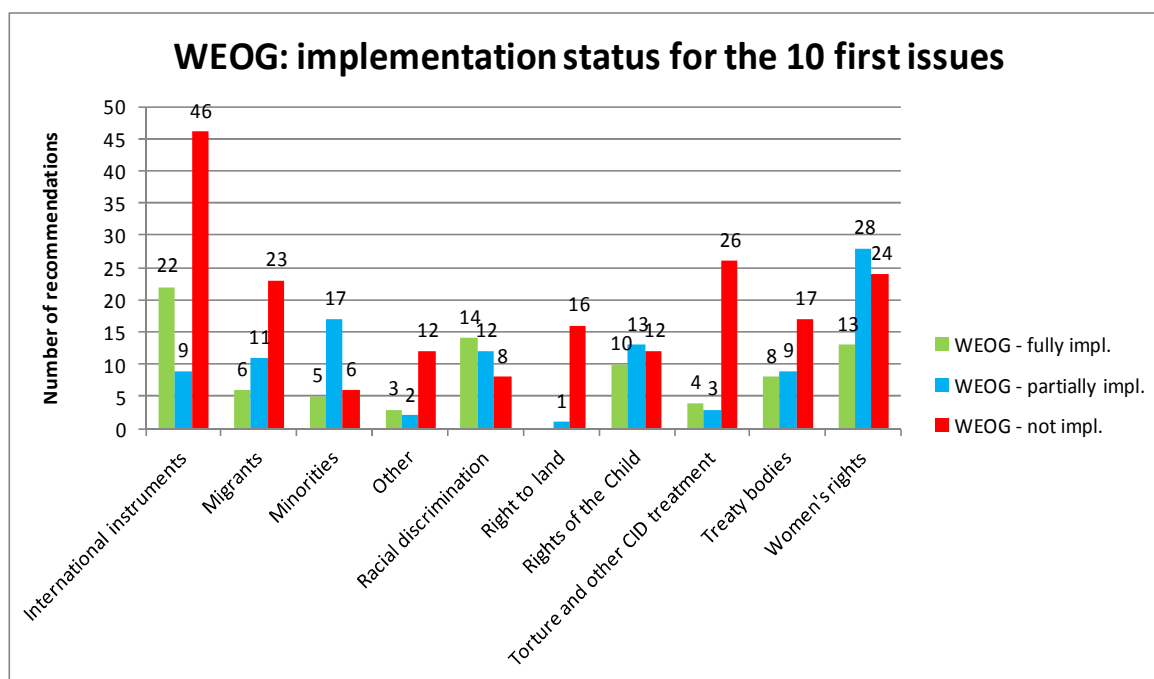


In GRULAC, “justice”, “NHRI” and “indigenous peoples” are the main topics evolving beside the three recurrent issues:





Finally, in Western Europe and Other Groups, “racial discrimination”, “migrants”, “minorities” and “treaty bodies” are on track:



However, such data does not take into account specific issues for countries within each regional group. In order to provide best practices, it is worth having a closer look at the State’s situation.

### 3. Case studies and best practices

In a more qualitative approach, we selected 5 States (one per regional group, namely Chile, Malaysia, Mauritius, Portugal and Romania) in order to extract how they addressed the recommendations on the ground, and to closely explore which improvements have been achieved. We picked some of the best records, aiming at showing the best examples and sharing best practices. All data is extracted from the Mid-term Implementation Assessments which are available on UPR Info's Follow-up Programme website<sup>6</sup>.

Generally, we can learn from the five countries selected that several measures are taken with a view towards addressing **women's rights**. Portugal has ameliorated the administration and its "victim protection system" through enhancing and easing administrative support, monitoring domestic violence cases and facilitating access to women's shelters. The recognition of victim status is core in Portugal's view, and a recently created Commission can financially support the victims. Mauritius looks to build further shelters, to provide administrative support and to grant financial allowance to victims similarly to Portugal. In addition, Mauritius engaged domestic religious bodies in order to implement raising-awareness programmes. The Ministry of Labour also severely fines the perpetrators of sexual harassment, and removed discriminatory provisions "prescribing wages on a gender basis". Malaysia aims at ensuring that 30 % of women participation in corporate boards is reached by 2016; the country increased full-paid maternity leave for female government servants to 3 months, and appointed two female Sharia judges. Finally, Chile created women's shelters and introduced a law punishing femicide.

Both Romania and Portugal are running housing programmes for the **Roma communities**. Romania states that a number of school seats are specifically reserved for young Roma and looks to enlist Roma in entrance exams for Police schools. With the support of the European Social Fund, the National Agency for

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<sup>6</sup> Internet address is the following: <http://followup.upr-info.org>



Roma dedicated € 25 million to improve Roma participation in the labour market through a holistic approach covering training and diversification of job opportunities. Portugal launched a pilot project where Roma mediators are trained and placed in local services and facilities in order to improve the access of the communities to such services.

On the **trafficking** scourge, Malaysia aims to avoid mistakes leading to the misidentification of trafficked persons as migrants. With the support of UNHCR, the State started biometric registration of refugees and asylum seekers. Chile established a “Commission for the recognition of the refugee status” and codified the illicit trafficking of human beings, enabling the country to be more effective in both prevention and criminal prosecution. In Mauritius, the country began intensifying the training of police officers and further conducts crackdown operations. It is worth noting that Chile and Mauritius took measures to address the problem both upstream and downstream.

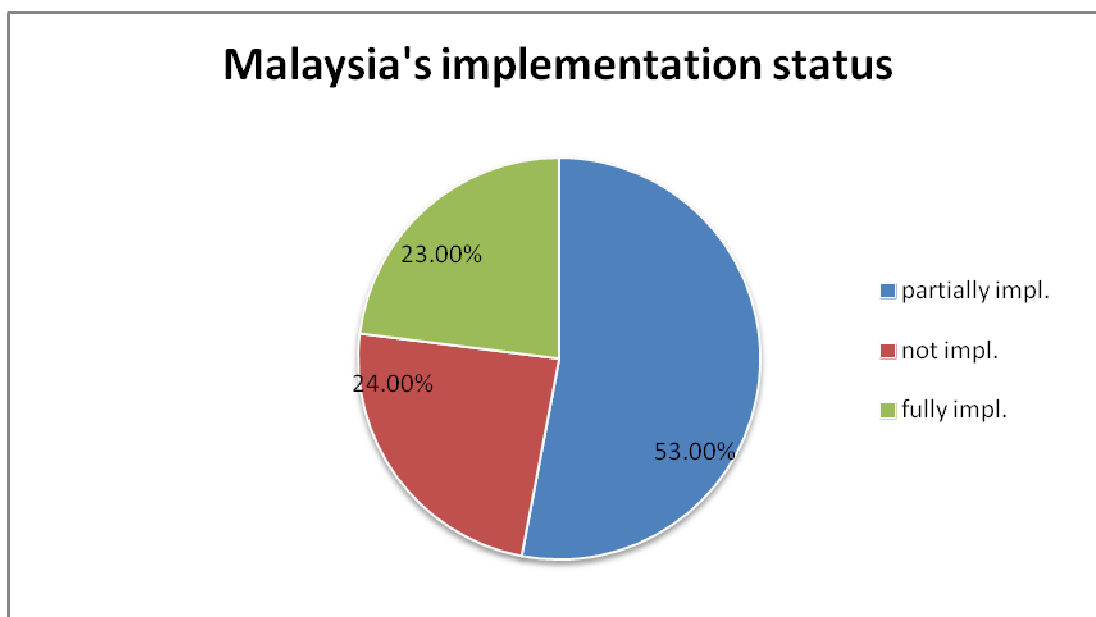
With regard to **rights of the child**, Chile forbade under certain circumstances night work for children under 18 years old, and enacted a law on child pornography and sexual harassment of children. Chile also developed social awareness-raising projects and through specialised intervention programmes impacted 7730 children and adolescents. Romania, aiming at reducing the phenomena of school dropout and absenteeism, has developed programmes supporting education of disadvantaged groups and has begun to offer financial support and school transport. It rehabilitated educational facilities and started to build new educational units. Mauritius led several measures to address child issues. Police officers teach children about child abuse and rights of the child in schools. Communities are sensitised on child abuse with a view to empower those communities, and in high risk areas, a surveillance mechanism has been set up. Child under the age of 16 cannot be employed. Officers have the duty to inspect all places of work, in order to detect illegal employment.

The following section will describe more precisely the improvements clustered by country. For every country, a brief presentation is given (implementation status and the number of recommendations received for each action category), and positive progress shared by stakeholders is detailed.

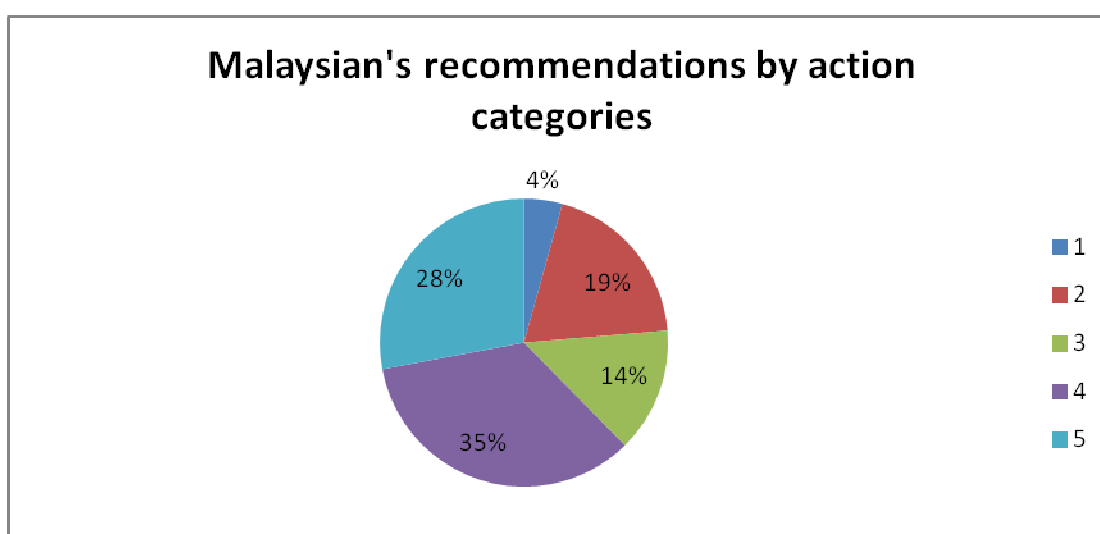


3.1. Malaysia

Malaysia's mid-term assessment demonstrated a strong commitment of the State to implement recommendations. One quarter has not been implemented, one quarter has been fully implemented, and half has been partially implemented. Stakeholders have commented upon 118 recommendations out of 147.



28 per cent of recommendations received and commented upon in the MIA were of action category 5:





According to Malaysian national stakeholders, mainly the Human Rights Commission of Malaysia (HRCM), several achievements have been noticed.

### 3.1.1. MDGs and housing rights

*Malaysia has already achieved or is on track to reach many of the Millennium Development Goals (MDGs) and targets by 2015<sup>7</sup>. The Tenth Malaysia Plan (2011-2015) commits to allocating 30 per cent of the country's development expenditure to the social sector so as to achieve greater participation by groups that are most in need, especially the bottom 40 per cent households, and provide equitable access to basic infrastructure and services<sup>8</sup>.*

*The Malaysian government launched the "My First Home Scheme" in March 2011 providing an opportunity to those under the age of 35 earning not more than RM 3,000 a month to own their first house. In the 2011 National Budget, the Government announced that RM568 million will be allocated to build 300 housing units under the Urban Housing Assistance Project, 79,000 units under the People's Housing Programme and 8,000 units under the Rental House Assistance Project. An additional allocation of RM50 million has also been set aside to assist estate workers to own a house under the Low Cost Housing Fund Scheme<sup>9</sup>.*

### 3.1.2. National plan of action, civil society collaboration

The government of Malaysia agreed to develop a National Human Rights Action for Malaysia in 2010. It *appointed the Legal Division of the Prime Minister's Department as the focal agency to develop the plan. It conducted a Post-UPR Briefing Session for Civil Society Organisations in May 2010 to share the progress of UPR implementation by various governmental agencies. It had provided a platform for both the Government agencies and members of CSOs to exchange views and*

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<sup>7</sup> Malaysian Bar Council, Mid-term Implementation Assessment on Malaysia

<sup>8</sup> UNDP mid-term review on Malaysia

<sup>9</sup> Human Rights Commission of Malaysia, Mid-term Implementation Assessment on Malaysia





*suggestions pertaining to the UPR follow-up. In addition, in April 2011 the government participated in a Briefing Session on the UPR Follow-up jointly facilitated by the [Human Rights Commission of Malaysia] and the [OHCHR] [...]. A similar briefing session had also been conducted for members of CSOs on the same day.<sup>10</sup>*

*Based on its discussion with various stakeholders on the UPR follow-up issues, the [Human Rights Commission of Malaysia] [observed] that there is a need for the Government to enhance its engagement with the CSOs through more regular dialogue or briefing sessions in order to promote greater understanding among the civil society of the progress of UPR implementation as well as the possible role of various stakeholders could play in supporting the implementation of the UPR at both national and levels<sup>11</sup>. Such meetings are very much needed, as they enable to exchange views and suggestions pertaining to the UPR follow-up among States and stakeholders.*

### 3.1.3. Trafficking and migrants

The [Human Rights Commission of Malaysia] has been involved in drafting *the National Strategic Plan on Anti-Trafficking in Persons (2010-2015) [...], in its capacity as one of the members of the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants<sup>12</sup>.*

*Various measures were undertaken by the Government to avoid misidentification of trafficked persons as irregular migrants. They include: providing training courses for prosecutors and enforcement agencies as well as the development of a Standard Operating Procedures.<sup>13</sup> Government has commenced biometric registration of refugees and asylum seekers registered with the UNHCR<sup>14</sup>.*

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<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> Malaysian Bar Council, *op. cit.*



### 3.1.4. Women's rights

The government of Malaysia took numerous measures in order to promote gender equality, notably<sup>15</sup>:

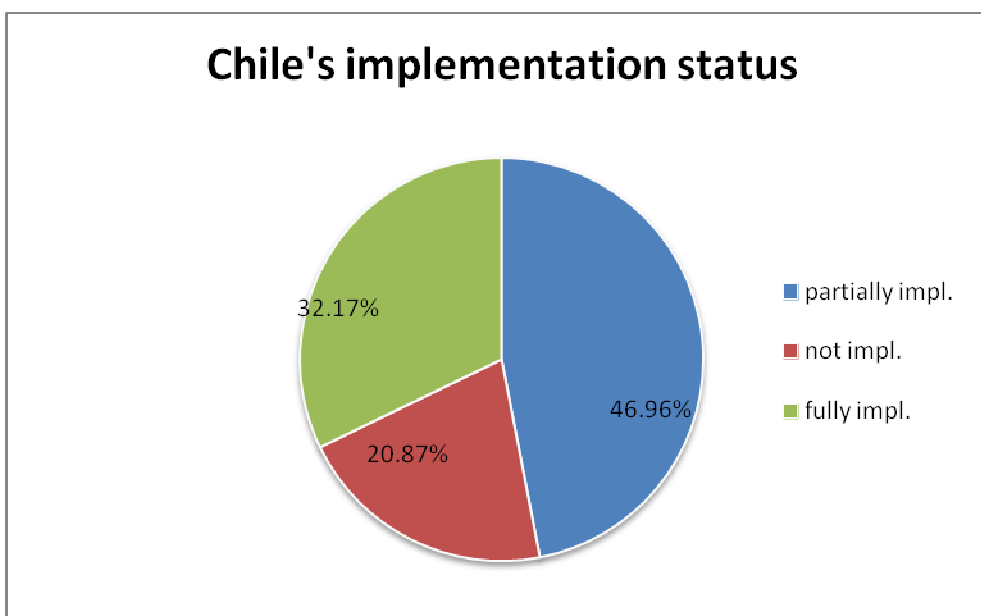
- *Enforcement of Work Regulations (Part-time Workers) 2010 under the Employment Act 1955 to provide flexible working arrangements;*
- *Providing training to develop women entrepreneurs;*
- *Continued effort to mainstream the interests and concerns of women, children and PWDs at all levels through policy formulation and programme planning and legislation;*
- *Appointment of two female Sharia judges in May 2010;*
- *Establishment of a Special Committee chaired by the Minister of Women, Family and Community Development to implement gender sensitization programmes in the public sector towards enhancing women's representation in key decision-making positions within the parliament, state legislative assemblies, judiciary and ministries;*
- *Introduction of guidelines to address sexual harassment issues in the workplace and the possibility for the guideline to be made compulsory for employers' adoption and implementation;*
- *Increased maternity leave facility for female government servants with the flexibility to self-determined full-paid maternity leave, not exceeding 90 days from the previous 60 days;*
- *In the recently launched New Corporate Governance Blueprint 2011, companies are recommended to put in place a policy that would ensure that women candidates are sought as board members, thus reflecting the Government's commitment in bridging the enormous gender gap in the composition of board members in Malaysia. The goal is to reach 30% women participation on boards by 2016. Currently, women make up only 8.2% of all directors on boards of listed companies.*

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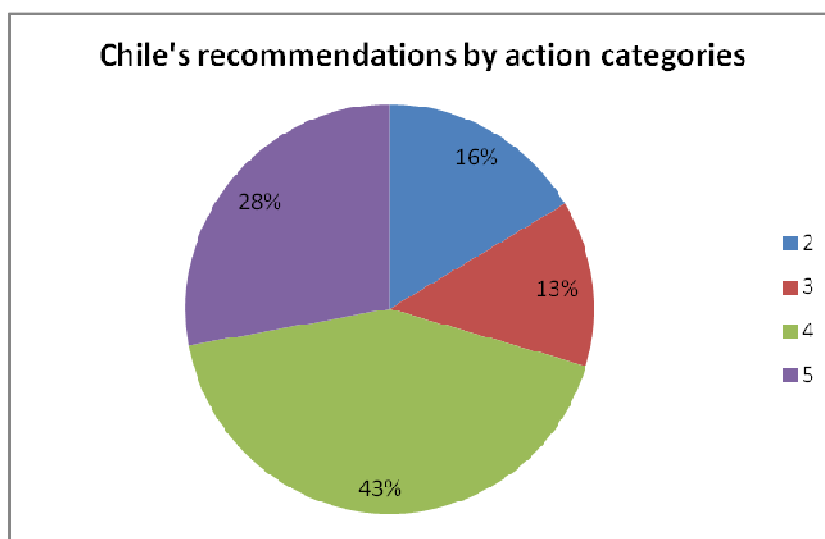
<sup>15</sup> Human Rights Commission of Malaysia, *op. cit.*

### 3.2. Chile

The Chilean mid-term assessment demonstrated a very high record of implemented recommendations: one fifth has not been implemented, one third has been fully implemented, and approximately one half has been partially implemented. Stakeholders have commented upon 116 recommendations out of 122. 80 percent of NGOs that took part in the UPR participated in the Follow-up Programme. Civil society in Chile is very active, and very committed to exploring UPR opportunities.



28 percent of recommendations received and commented upon in the MIA were of action category 5, matching the average of States in these case studies:





### 3.2.1. Indigenous rights

In spite of several civil societies' critics regarding the governmental policy on indigenous rights, the Government of Chile said that *Chile has developed an indigenous policy entitled "Historical Reunion", which focuses on dialogue with the nine indigenous peoples inhabiting our country, from five different standpoints: participation and consultation, culture and identity, indigenous institutional framework, land and comprehensive development. On September 1, 2010, Chile submitted the first report on the implementation of the Convention to the competent ILO agencies and in September 2011, the replies to direct questions made by the Committee. Within the framework of "Dialogue for a Historical Reunion" 65 round tables have been carried out at a national, regional, provincial and municipal level since 2010. In the last few years, 25 consultation processes have taken place on several matters directly affecting indigenous peoples, including the claim for a consultation mechanism that is presently at a "pre-consultation" stage to define its implementation (consulta de la consulta). Additionally, on June 7, 2010, the Council of Ministers for Indigenous Affairs, responsible for assisting the President in the design and coordination of public policies addressed to indigenous peoples, was created. Finally, it must be noted that on January 15, 2012, indigenous peoples democratically elected their representatives to the position of indigenous councillors of the Indigenous Development National Corporation. The Government reactivated mechanisms to deliver lands to indigenous peoples in a transparent, objective way, accompanied by a production support and technical assistance agreement. As at December 31, 2011, purchase of lands under article 20b) of the Indigenous Land amounted to CLP 27,047 million (100% of funds allocated), or the equivalent to the purchase of 54 lots and 10,335 hectares to the benefit of 44 communities or 1,181 families. The subsidy mechanism has also been strongly fostered. In this regard, during 2011, 4,170 hectares were purchased, equivalent to CLP 11,626 millions, to the benefit of 608 families. This entails an increase by 50% as compared with previous years.*<sup>16</sup> However, NGOs temper and point out that several initiatives

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<sup>16</sup> Government of Chile, Mid-term Implementation Assessment on Chile



*related to the rights of indigenous peoples have been undertaken since 2007. However the effectiveness of many of them is still unclear. Political representation of indigenous people remains weak. Though they make up nearly 7% of the population, indigenous peoples are not represented in Congress.*<sup>17</sup>

### 3.2.2. Trafficking and refugees

One law regarding refugees and another one concerning trafficking were enacted: on April 12 2010, Law No. 20,430, which “sets provisions on the protection of refugees” and establishes the “Commission for the Recognition of the Refugee Status”, and on April 1 2012, Law No. 20,507, which “codifies the illicit traffic in migrants and in human beings and sets regulations for its prevention and a more effective criminal prosecution”<sup>18</sup>.

### 3.2.3. Women’s rights

On women and equality rights, *Chile has taken positive steps to deal with domestic violence. The State has initiated several national campaigns and support programmes targeting the issue, and passed a law establishing the crime of femicide [law No. 20-480, December 2010].*<sup>19</sup> *The entry into force of [this] Law [...] was a major progress on the matter. It amends the Criminal Code and the Domestic violence Law by punishing femicide, increasing penalties applicable to said offense, amending regulations on parricide and codifying sexual offenses. Additionally, programs like “Chile Acoge”, women’s centers and centers to attend to victims of violent crimes were created*<sup>20</sup>. In addition, the law No. 20,501 on “Education quality and equity”, enacted early in 2011, guarantees education professionals’ rights to work in an environment characterized by tolerance and mutual respect<sup>21</sup>.

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<sup>17</sup> Unrepresented Nations and Peoples Organization, Mid-term Implementation Assessment on Chile

<sup>18</sup> Government of Chile, *op. cit.*

<sup>19</sup> Unrepresented Nations and Peoples Organization, *op. cit.*

<sup>20</sup> Government of Chile, *op. cit.*

<sup>21</sup> *Ibid.*



### 3.2.4. Rights of the child

In order to improve child labour issues, the State said that *the agenda on that matter is aimed at preventing these violations and attending victims under the aegis of the “action plan for the prevention and eradication of child labor”*. Rights Protection Offices are available, as well as 16 specialized projects to attend sexually-exploited victims and specialized intervention programs, which in 2011 amounted to 93. They attended 7,730 boys, girls and adolescents, including victims of the worst forms of child labor. As regards the promotion of rights, the “Community Prevention Projects” stand out. At present, 63 such projects exist. In relation to social awareness, campaigns like the World Day against Child Labor (June 12) and the National Day against Commercial Sexual Exploitation of Children (May 18) have been developed. In October 2011, the Labor Code was amended by Law No. 20,539, which forbids children under 18 years old to perform any night work at industrial and commercial facilities. It also sets a period in which a child under 18 years cannot work at nights. Several laws were enacted: On April 8, 2011, Law No. 20,507 became effective, which “codifies the traffic in children and adults and sets regulations for its prevention and a more efficient criminal prosecution of such crime”. On August 11 of that same year, Law No. 20,526 entered into force “which punishes sexual harassment of children, child pornography and possession of child pornographic material”: In 2010, a “National Observatory of Commercial Sexual Exploitation” was initiated, which contributed to the preparation of the “Second Framework for Action on the Commercial Sexual Exploitation of Children”, which is expected to be concluded within the 2012-2014 term<sup>22</sup>.

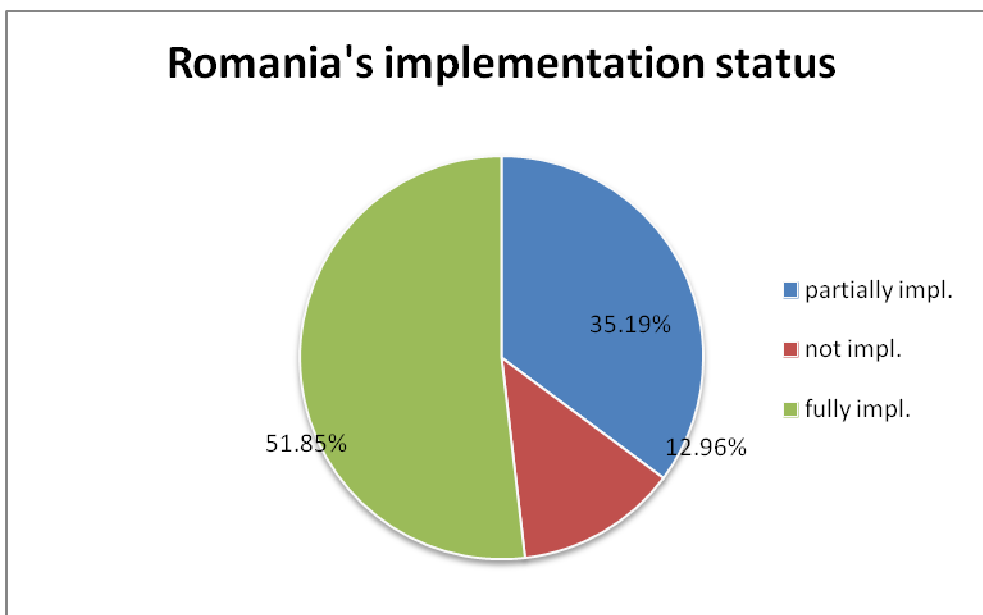
### 3.3. Romania

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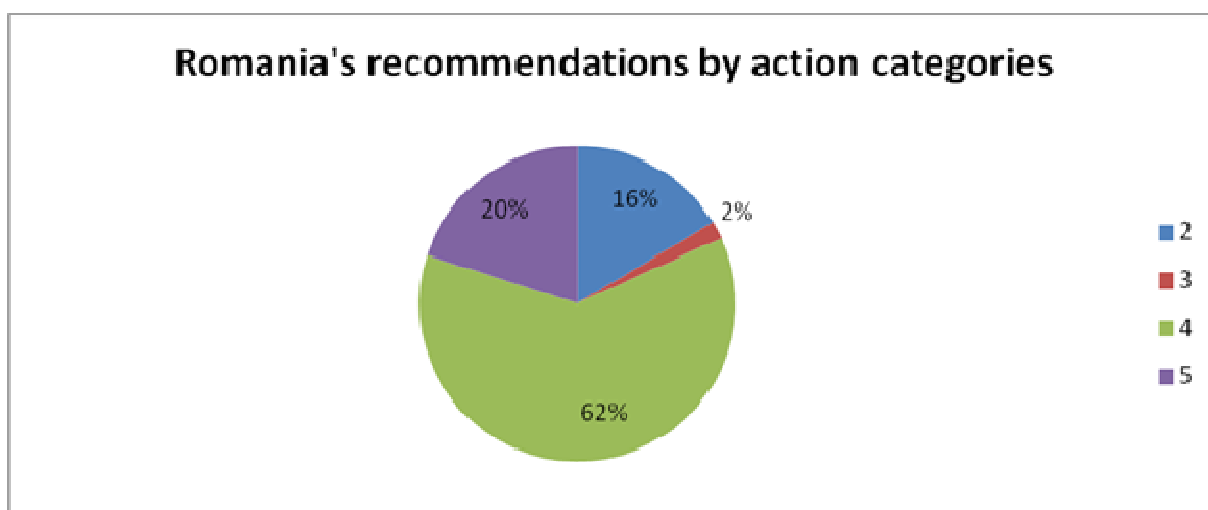
Romania’s mid-term assessment demonstrated the highest record of implemented recommendations: 13 percent is not implemented, one third is partially implemented, and approximately one half is fully implemented.

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<sup>22</sup> *Ibid.*



However, such results have been achieved in particular circumstances. All recommendations (55) have been commented upon by stakeholders, but it is worth noting that most of the recommendations were commented upon by the State only. Furthermore, only 20 per cent of recommendations were of action category 5, a very low percentage of precise and action-oriented recommendations. A final factor to note is that Romania was reviewed during the 2nd session, when the UPR was still in its early stage.





### 3.3.1. Minorities rights

Romania detailed how it intended to implement new measures to improve the Roma communities' situation. *In terms of education, school mediators, which function as a valuable link between the community and the school, have been constantly trained over the last years. The practice of reserved seats for Roma in various academic programmes, on an annual basis, has been reinforced. 492 seats were reserved and occupied by young Roma in the academic year 2009-2010 and 555 seats are reserved for Roma in the school year 2010-2011. The Romanian Police, Border Police and the Romanian Gendarmerie continued their efforts in order to enlist national minorities, in particular Roma, to entrance exams organized by police and gendarmerie schools. The Government maintained the institution of the Roma Health Mediators, who facilitate the communication between members of the Roma community and the health personnel and also their access to health care services. With regard to access to housing, the authorities have proven to strive for making the best use of the available resources and provide persons in need with adequate social housing, irrespective of their ethnicity. The Government initiated in 2008 a pilot program "Social housing for the Roma communities", financed from the state budget and intends to implement social housing projects in the 8 development regions of Romania, in locations determined in cooperation with the local authorities and the National Agency for Roma. In 2010, a number of 301 apartments are expected to be constructed. The National Agency for Employment has succeeded to improving the access of the Roma to the labour market, by taking measures such as: organising special Job Fairs and advertising such actions, as well as the rights of the Roma, by means of press conferences, radio and TV appearances; organising employment caravans in the Roma communities, with a view to identifying employment opportunities, as well as providing information on the rights and obligations of the Roma and the services they may benefit from in view of securing employment; developing partnerships with the National Agency for Roma and with NGOs actively supporting the Roma; [...]. The National Agency for Roma received 25 million Euros in 2008, from the European Social Fund, for projects dedicated to improving the participation of Roma on the labour market. The Government followed a complex*





*approach, covering not only the employment objective per se, but also the provision of adequate training and diversification of opportunities for their integration in the labour market.*<sup>23</sup>

### 3.3.2. Rights of the child

On the child's rights, the government of Romania explained that *children's access to medical and recovery services is guaranteed, without any discrimination, by the State and the related costs are borne by the National Fund for Health Social Insurances and the state budget. All children up to 18 years old benefit from free insurance, in the absence of any contribution to the National Fund for Health Social Insurances. For reducing phenomena such as school dropout and absenteeism, the Ministry of Education, Research and Youth has developed educational programmes for supporting school participation throughout the entire undergraduate system, such as: supporting the education of disadvantaged groups [...] offering financial support and school transport [...] the rehabilitation of the educational facilities and the building of new educational units (kindergartens, school campus), the programme for relaunching school education*<sup>24</sup>.

### 3.3.3. Corruption

*In 2008 the Government adopted "the National anti-corruption strategy for the period 2008-2010 concerning vulnerable sectors and the public local administration". A Monitoring Committee was tasked with monitoring the application of the Strategy on an annual basis. Also, an expert-level Working Group was set up in order to supervise the implementation of specific measures provided in this Strategy. It comprises representatives of all central authorities with competencies in the area, as well as representatives of 11 local public authorities. Furthermore, the Working Group prepared mid-term evaluation reports on the implementation of each sector falling under the scope of the Strategy. The reports describe not only the progress*

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<sup>23</sup> Government of Romania, Mid-term Implementation Assessment on Romania

<sup>24</sup> *Ibid.*



achieved in implementing these measures, but also the impact generated by these implementation efforts. [...] [The Monitoring] Committee formulated a number of recommendations, such as:

- *drafting a new strategic document establishing new objectives for preventing and combating corruption within the public administration;*
- *extending the monitoring of the implementation of the new strategic document to a larger number of administrative territorial units;*
- *elaborating certain SMART objectives, as well as identifying both quantitative and qualitative indicators etc.*

[...] In order to advance the implementation of some important reforms, including with reference to the Procedural Codes, the Government approved, [...] a draft law for accelerating the judicial procedures [...]. It aims at reducing the workload of the High Court of Cassation and Justice (HCCJ), as well as reducing the workload of judges from labour and social security court sections; reducing the duration of trials and increasing the efficiency of judicial proceedings in criminal matters; eliminating the unjustified delays in a trial by formulating the obligation for the court to set short procedural terms; reforming the procedure for solving the appeals in the interest of the law, both in civil and criminal matters (e.g. extending the categories of subjects who have legal standing to submit such an appeal, reducing the duration of the procedure by introducing deadlines for solving the appeal in the interest of the law, for its motivation and publication etc.); improving the procedure for the enforcement of judgments in civil matters; reducing the workload of tribunals in order to ensure the celerity of complex criminal cases.

With regards to strengthening the transparency and accountability of the Superior Council of the Magistracy (SCM), progress had been made, namely:

- [...] the SCM has updated its main directions of action for 2009-2010 as follows: submitting a legislative amendment for limiting the categories of magistrates who might ask for anticipated retirement; focusing the professional training of magistrates for 2010 on the new civil and criminal codes; improving the legal framework on the evaluation of judges and prosecutors; the



*elaboration of a collection of jurisprudence on disciplinary matters for 2007-2009. The activities towards accomplishing the measures are monitored and assessed.*

- [...] the SCM ensured the publication of the reasoned decisions of SCM on its own website as well as the publication of the collection of jurisprudence on disciplinary matters for the period 2006-2009. Furthermore, the complete agendas of the meetings are now routinely published.*
- In response to concerns regarding the objectivity and transparency of the evaluation process undertaken by the SCM in order to select judges for promotion to the HCCJ, the SCM Plenum approved, in April 2010, the Guidelines on the selection of the candidates for the judge position at the HCCJ.*

*The draft Law for modifying Law no.47/1992 on the organisation and functioning of the Constitutional Court was adopted by the Senate in August 2010. The new law will speed up judicial proceedings, by eliminating the de jure suspension of the case when the constitutionality of a legal text is challenged during a trial, thus avoiding unreasonable delays and abuses of law in judging cases. In order to preserve compliance with the Constitution, a special ground for revision is introduced both in the Civil and Criminal Procedure Codes, applicable to the situations in which the Constitutional Court declared unconstitutional the challenged legal text after the settlement of the case. Also, Romania has developed its track record in the fight against corruption. The National Anti-Corruption Directorate continues to show a good track record in the investigation of high-level corruption reflected in further indictments and an increased number of final court judgements. Two awareness-raising campaigns were designed and implemented, addressing mainly the impact of corruption on citizens: "Corruption convicts you" and "Family has a future, corruption does not!". Another campaign "I finance the slavery!" is currently being implemented<sup>25</sup>.*

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<sup>25</sup> *Ibid.*



### 3.3.4. Detention

*The Romanian authorities have taken further measures to improve living conditions in places of detention. Several programmes for thermal plants rehabilitation have been implemented, which led to the installation of modern gas plants and light fuel plants. The efficiency of lucrative activities involving detainees has also been enhanced, standards of internal control have been strengthened and investments have been made into the quality of the detention facilities. As for food standards, the value norm has replaced the caloric norms; consequently, there are no more differences between the food provided to inmates and to staff members. In terms of health, the inmates benefit from free health care and medicines. Each penitentiary has at least a general practitioner, a dentist and nurses providing permanent health care. The prisoners suffering from acute or chronic disorders benefit from special care and surveillance in the prison infirmaries, specialized ambulatories, public hospitals or hospitals in their own health network, and in case of medical or surgical emergencies, they are transferred to the nearest hospital in the community. In order to observe the legal rights of the detainees, works have also continued in order to rehabilitate/modernize police detention facilities and to provide them with the necessary facilities (e.g. a bed per person; modern means of transportation; mailboxes and phones, libraries; TVs). More than 70% of the court clerk's offices and visiting rooms have been rehabilitated<sup>26</sup>.*

## 3.4. Portugal

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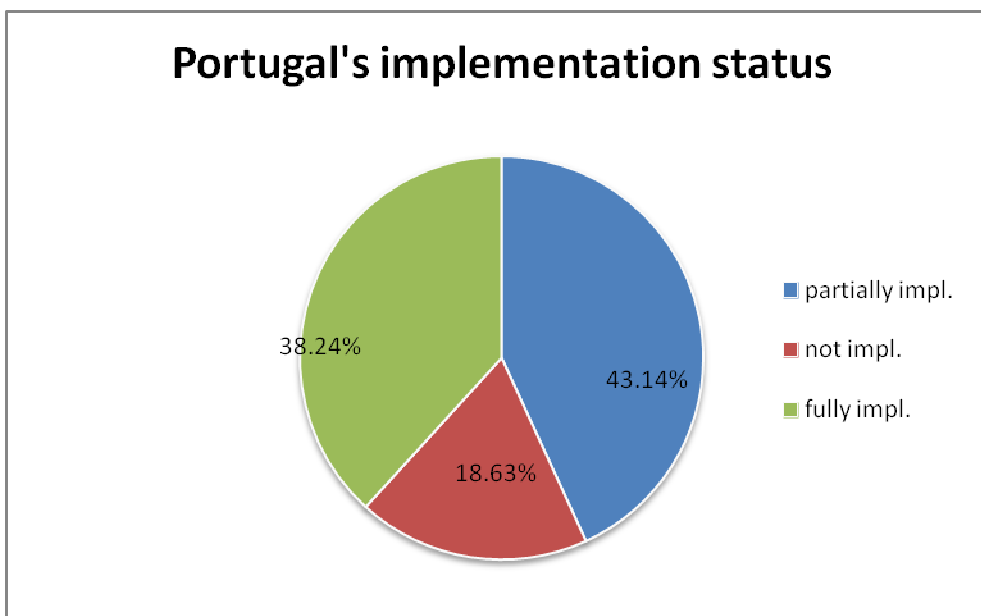
Portugal's mid-term assessment, in a similar vein as the former States, demonstrated assessed a high record of implemented recommendations: one fifth was not implemented, 38 percent was fully implemented, and 43 percent was partially implemented. 107 recommendations out of 115 have been commented upon by stakeholders.

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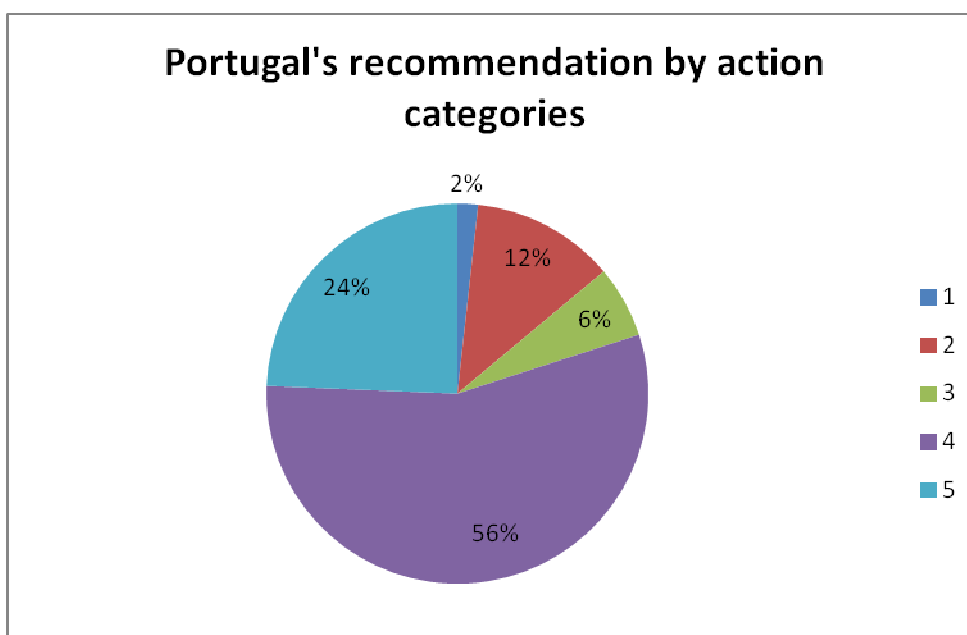
<sup>26</sup> *Ibid.*



The State, the National Human Rights Institution and an international NGO participated. However, domestic civil society in Portugal was not involved in the UPR process. Civil society neither submitted a report to OHCHR nor participated in the Follow-up Programme.



24 percent of recommendations received and commented upon in the MIA were of action category 5, below the average among States presented in these case studies:





### 3.4.1. Racial discrimination

Fighting racism and intolerance is a priority for *Portugal* and many activities in these areas have taken place over the reporting period, including the continuation of efforts by [Alto Comissariado para a Imigração e Diálogo Intercultural] and notably within the II Plan for Immigrant Integration (2010-2013). Actions undertaken include TV and radio programs and the establishment of two annual prizes for media works promoting human rights and tolerance. Several publications on migration and asylum-related issues were launched and distributed, including the Portuguese versions of IOM Glossary on Migration and of “A Diversity toolkit for factual programs in public service television”, produced by the EU Agency for Fundamental Rights and based on which Portuguese public television (RTP) has developed a code of ethics. Specific workshops for media professionals on how to address migration issues were held throughout the country, as well as seminars for journalists on such areas as disabilities, immigration, diversity, asylum/refugees and violence. Furthermore, a list of migrants with prominent work in several areas, such as doctors, artists and lawyers, has been prepared and disseminated to media professionals. In 2011, the Commission for Equality and against Racial Discrimination (CICDR), which examines complaints of racial discrimination and issues recommendations thereon, publicly reaffirmed its 2006 recommendation for the media and law enforcement agencies to, *inter alia*, refrain from revealing a subject’s nationality, ethnicity, religion or immigrant legal status in official communications.

A training team on intercultural issues has been created to help public schools – and other actors– deal with an increasingly diverse student population by providing free-of-charge support to awareness-raising activities at the local level. The curricula of science and humanities courses now cover such topics as citizenship, health and sexuality. Other measures include the adoption of specific strategies on intercultural issues for, *inter alia*, high level public officers and educators and the introduction of a post-graduation course for local staff working with migrants (2009),



as well as the implementation of a pilot project to help clarify the role of intercultural mediation agents (2011).

Portuguese law specifically establishes the crime of racial, religious or sex discrimination, which covers organized propaganda activities inciting to discrimination on the basis of race, color, ethnic or national origin, religion, sex or sexual orientation, as well as acts of violence, threats or defamation on the same basis and the denial of war crimes, crimes against peace or crimes against Humanity. Furthermore, racist motivation can be taken into account in the determination of the measure of penalty in relation to all crimes, thereby constituting a sort of general aggravating circumstance. All such offences are considered crimes of priority prevention and investigation. Police regularly monitors websites, web chatting rooms and other fora associated with violent extreme right groups. A special tool has been made available in CICDR website to facilitate complaints and speed up action against any blog or site disseminating racism.

In addition to measures outlined above, a series of measures was undertaken in 2010 and 2011 to sensitize against discrimination, including a national photo and video contest, the display of banners in soccer stadiums, a symposium on immigration and intercultural dialogue and the publication of a book on racist discourse in Portugal<sup>27</sup>.

Portugal has a wide set of provisions that prohibit any form of discrimination based on race. In addition to article 13 of the Portuguese Constitution and the provisions of the ICERD, which Portugal has ratified, different laws strengthen this prohibition. In the Portuguese Criminal Code, article 240 establishes the crime of racial, religious or sexual discrimination. Racial discrimination is also an aggravating circumstance to some crimes, such as homicide and bodily injury (articles 132 and 145), but there is no general provision considering it an aggravating circumstance.

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<sup>27</sup> Government of Portugal, Mid-term Implementation Assessment on Portugal





*Law 20/96, of 6th July, allows communities of immigrants and other associations that defend the interests at stake to be assistants to the prosecutor in criminal proceedings relating to racist or xenophobic crimes. Law 18/2006, which transposed Council Directive 2000/43/EC, of 29th June, establishes a legal framework to combat ethnic and racial discrimination and creates an administrative complaints procedure. Law 134/99, of 28th August, prohibits discrimination in the exercise of rights based on race, colour, nationality or ethnic origin. The Labour Code and the Employment Contract in Public Functions Regime also include provisions regarding equality and non-discrimination. Finally, the Statutes of different police forces establish among the special duties of agents to act without discrimination based on descent, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation or social condition or sexual orientation<sup>28</sup>.*

### **3.4.2. Minorities**

*In line with EU decisions on this matter, the Portuguese authorities have drafted a National Strategy for the Integration of Roma Communities. The document gathered contributions from 8 ministries, local authorities, civil society organisations and representatives of Roma communities. It was submitted to public consultation from 28th December 2011 to 18th January 2012. In addition to the key-themes of Education, Access to Employment, Health and Housing, indicated by the EU, the Government added a cross-cutting priority area on issues of Citizenship, Fight against Discrimination, Gender Equality and Justice and Security. The draft Strategy envisages several measures aiming to ascertain the situation of Roma in different areas (e.g. produce a crosscutting national survey of the socio-economic situation of Roma communities, by 2014), to improve this situation (e.g. completion of compulsory education for 60% of male and female Roma children, by 2020); to strengthen Roma participation (e.g. implement 4*

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<sup>28</sup> *Ibid.*





*training actions on small project management, by 2015); and to promote Roma culture and change public perception in relation to that community (e.g. implement at least 24 training/awareness raising actions aimed at a diversity of sectors of the population – Roma communities, professionals in various areas and decision-makers, amongst others, by 2020)<sup>29</sup>.*

*The police [are] training agents to act as mediators in Roma communities, including as a means to encourage their civic participation, promote education and find appropriate response to the needs of Roma women. The Immigration and Borders Service (SEF) develops outreach programs to provide a whole range of services to such vulnerable groups as sick persons, children and the elderly (“SEF in Motion”), as well as to provide information to irregular migrant children attending school (“SEF goes to school”). The Ministry of Internal Affairs has adopted its first Sectorial Plan on Gender Equality, a main focus of which is to raise the awareness of staff (including police officers) to gender and sexual orientation issues. A working group on violence and hate crimes against LGBT people was established in partnership with security forces.*

*A Pilot Project for Municipal Mediators was launched in October 2009, whereby mediators, preferably of Roma origin and locally resident, are placed in local services or facilities and adequately trained, with the view to improve the access of the Roma communities to such services or facilities and prevent conflict situations. Roma communities obviously benefit from many of the measures in place for the general population, including Social Integration Allowance, housing programs, social protection schemes, including in school context, and access to the National Health Service. A Portuguese Strategy for the Inclusion of Roma Communities is now in preparation, focusing on 4 main areas: education, health, housing and employment<sup>30</sup>.*

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<sup>29</sup> Portugal's Ombudsman, Mid-term Implementation Assessment on Portugal

<sup>30</sup> Government of Portugal, *op. cit.*



### 3.4.3. Following up UPR recommendations

*The process of follow-up to Portugal's UPR is carried out in the framework of the National Human Rights Commission, a governmental body working under the Ministry of Foreign Affairs that aims to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter. It is composed of representatives of 12 governmental departments, but other public bodies may also participate in its work. Particularly, the Portuguese Ombudsman, in his capacity as National Human Rights Institution, has been invited to participate in plenary and working group meetings. The Commission may also invite representatives of NGOs and other elements of civil society to participate in its activity. To date, there have been 2 plenary meetings and a few working group meetings open to civil society representatives. Portugal's UPR midterm review report was discussed in one of those plenary meetings open to civil society<sup>31</sup>.*

### 3.4.4. Women's rights – domestic violence

*The consolidation of the victim protection system is sought through such measures as: enhanced coordination between civil and criminal courts in divorce or child custody cases and in cases of domestic violence, with the view to prevent revictimization; standardization of procedures for reporting and collecting information, including the creation of a database; improvement of screening and diagnostic mechanisms, namely for pregnant women; dissemination of pilot projects in the areas of health, remote assistance to victims and mutual support groups; provision of shelters to victims within existing social responses; and facilitation of victims' access to housing (such cases are already considered a priority in some re-housing schemes, eg. in Azores).*

*Other measures include the priority access of children of victims of domestic violence to child support services, the development of intervention strategies for particularly*

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<sup>31</sup> Portugal's Ombudsman, *op. cit.*



*vulnerable victims such as elderly persons, migrants, children, persons with disabilities and LGBT, and the promotion of victims' access to professional training and the labor market through the appointment of focal points in employment centers. There are also measures to prevent the recurrence of domestic violence by working with perpetrators (the National Plan requires that prisons implement specific individualized programs to this effect), providing adequate training to all relevant professionals, and researching on and monitoring the problem of domestic violence.*

*The II Plan for Immigrant Integration seeks to guarantee that migrants victims of, inter alia, domestic violence receive legal support, and that autonomous residence permits can be granted to members of reunified families who are victims of domestic violence. It also aims at preventing all forms of gender violence, including domestic violence and FGM, namely by providing information to men and women, producing information materials in several languages, creating discussion fora and using the media.*

*A number of measures have been introduced to regulate aspects covered by the Act on the prevention of domestic violence, and on the protection of and assistance to its victims, adopted in September 2009 and an important milestone since it introduces such important measures as: the recognition of the status of victim (to all alleged victims no sooner than domestic violence is reported, provided that there is no strong evidence that such claim is unfounded); the urgent nature of domestic violence proceedings; the use of technical means to remotely control perpetrators and assist victims; the possibility to arrest the perpetrator even if not caught in the act; the right of victims to redress; and the provision of legal, medical, social and labor support. Legal counseling to victims of domestic violence shall be provided by a lawyer appointed by the Bar Association, upon request from social security services.*

*The Code of Criminal Procedure now expressly requires that Public Prosecution informs victims of, inter alia, domestic violence of available public and private support services and of compensation options at their disposal. A Commission for the Protection of Crime Victims has been created in October 2010 with the mandate to ensure advance payment of compensation by the State to victims of violent crimes and domestic violence. The victim shall be informed of the main judicial decisions*



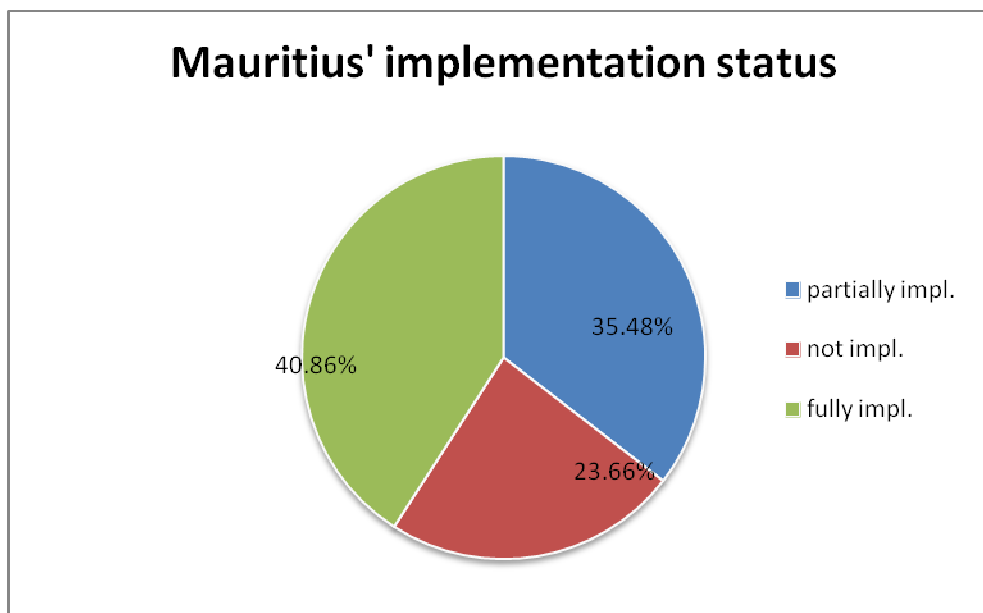
*affecting the aggressor's status. The use of video surveillance methods (both as an injunction and a penalty) shall take into account the compatibility of such methods with the victim's circumstances, and victim support services shall be informed of relevant details concerning the implementation of such methods. Police forces are also making efforts to closely monitor the problem of domestic violence and a national project (Project IAVE) is being implemented with the view to protect and support, inter alia, women, children, the elderly and persons with disabilities<sup>32</sup>.*

### 3.5. Mauritius

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Mauritius' mid-term assessment demonstrated the highest record of implemented recommendations: 23 percent is not implemented, 35 percent is partially implemented, and approximately 40 percent is fully implemented.

All recommendations (93) have been commented upon by stakeholders. It is worth noting that most of the recommendations were commented upon by the State only, like in the Romanian case.

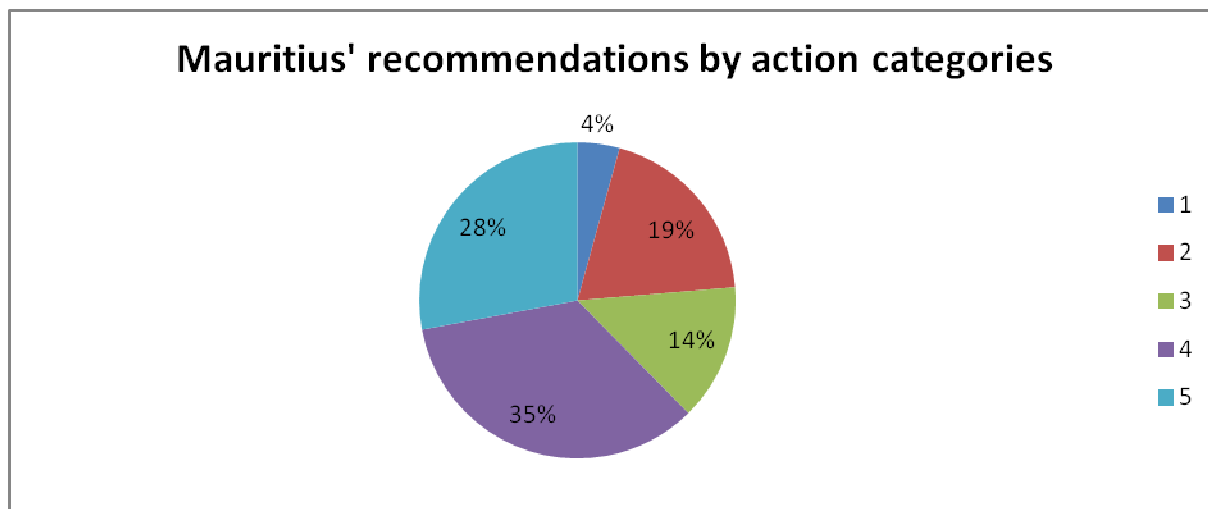


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<sup>32</sup> Government of Portugal, *op. cit.*



28 percent of the recommendations received and commented upon in the MIA were of action category 5, matching the average among States presented in these case studies:



### 3.5.1. Human rights education and training

*The provisions of the Protection of Human Rights Act have been included in the curriculum of training of all newly recruited police officers. Moreover, with a view to inculcating in Police Officers issues pertaining to human rights principles, lectures are often delivered by representatives of the National Human Rights Commission to senior Police Officers who, in turn, impart same to junior officers. Additionally, new recruits, Sergeants and Inspectors are examined on Human Rights issues during the end-of-course assessments. Amongst others, the following subjects relating to human rights issues are taught at the Police Training School: the Constitution of Mauritius, the protection of Human Rights Act 1998, ethical and legal police conduct, policing in democracies, police and non-discrimination, arrest and detention, use of force and firearms, police and the protection of Juveniles.*

*Furthermore, the curriculum of the Certificate/Diploma/ BSc (Hons) Degree Course in Police Studies taught at the University of Mauritius comprises a module on Human Rights and another one on International Humanitarian Law.*



*All self-defence courses have been replaced by 'Officer Safety' courses specifically tailored to meet the requirements of the concept of reasonable force in line with human rights principles.*

*A copy of the Universal Declaration on Human Rights has been circulated to police officers, thus enabling police officers to get acquainted with international human rights standards to be observed by all bodies involved in law enforcement. In order to prevent unlawful acts such as police brutality, Divisional Commanders and Branch Officers, including Heads of the different divisions of the Central Investigation Department and the Anti Drug and Smuggling Unit, have been urged to regularly address human rights issues so that all officers under their command are sensitized to the importance of respecting human dignity and human rights values at all times. Moreover, whenever recommendations are made by the National Human Rights Commission on police procedures and practices to counter police brutality, these are taken into consideration and if need be are disseminated through circular letters and daily lectures<sup>33</sup>.*

### **3.5.2. Detention**

*Detention Centres are equipped with CCTV cameras so as to ensure better security [...] Proper and appropriate free medical care is provided to prisoners. Medical Officers are posted at the Beau Bassin prison and prisoners who need specialized care are referred to the specialist concerned. A special ward is available at the Jawaharlall Nehru Hospital for admission and treatment of Prisoners. With regard to psychiatric care, emergency psychiatric cases are being admitted to the Brown Sequard psychiatric hospital.*

*All measures are taken to relieve overcrowding in prisons. The construction of a special prison for women detainees at Barkly has been completed. In addition, an dormitory to accommodate 60 detainees at Beau Bassin Prison is nearing completion. A Segregation and Protection Unit is being set up at the Women Prison.*

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<sup>33</sup> Government of Mauritius, Mid-term Implementation Assessment on Mauritius



*The works for the construction of a new high security prison at Melrose to alleviate the problem of overcrowding in prisons have started<sup>34</sup>.*

### **3.5.3. Poverty**

*Mauritius is committed to eradicating the relative poverty in the country. It is in this context that the Ministry of Social Integration and Economic empowerment has been created following the May 2010 general elections.*

*In line with the policy of the Government to eradicate poverty and to empower women to become self sufficient and more economically independent through income generating activities, various micro credit schemes are being provided. The programmes aim at alleviating poverty, raising standard of living and improving the status of women.*

*Mauritius, conscious that poverty affects more particularly women, has taken several initiatives at the national level to target women in the various poverty alleviation programmes: The Empowerment Programme enunciated in the 2007/08 budget is reinforced by the National Empowerment Foundation. This permanent structure paves the way for sustained support to those unemployed women who are above 45 years as compared to men of 50 years. The Empowerment Programme will thus address a gender gap in favour of women.*

*The creation of the Eradication of Absolute Poverty Programme (EAP) with an envelope of 395 million Mauritian rupees<sup>35</sup> in the 2008-2009 budget is testimony that Government's policies are consistent with macroeconomic frameworks. Fully conscious that, climate change and food and energy crises can have gender related impact, the Government has set up in 2008 a Food Security Fund to cater for programmes pertaining to these issues. The Ministry of Gender Equality, Child Development and Family Welfare is a member of the said Committee and its involvement is focused on preventive and informative measures to sensitise women*

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<sup>34</sup> *Ibid.*

<sup>35</sup> Approximately \$ 12.7 million





*on the wise consumerism. The Home Economics Section of the National Gender Machinery is presently encouraging women to initiate kitchen gardening projects for their daily livelihood.*

*The Women and Children's Solidarity Programme was created under the vote of the Prime Minister's Office in the Financial Year 2007/2008 with a view to providing to Non-Governmental Organizations that are deeply committed to helping women and children who are victims of abuse and violence is highly commendable and does come at an opportune time since the need for more specialized spaces as well as informed services is increasingly being felt. The initial provision of Rs.25M<sup>36</sup> has been increased to Rs.50M in Financial Year 2008/2009.*

*A Special Collaborative Programme (SCP) for Support to Women and Children in Distress was introduced in July 2009, with an envelope of Rs. 200 million (USD 7 million). It provides a grant ceiling of 2 million Mauritian rupees (USD 67 000) to Non State Actors (NSAs) implementing projects to integrate women and children in distress into the mainstream of society. For the first round of offers under the SCP, 17 NSAs have received grants to the tune of 20.4 million Mauritian rupees<sup>37</sup>.*

### 3.5.4. Women's rights

*Conscious of the need to address the issue of violence against women in a comprehensive manner, the Ministry of Gender Equality, Child Development and Family Welfare has adopted a broad framework to respond to domestic violence. [...] Victims of domestic violence may be given legal assistance and psychological counseling depending on cases. In case victims decide to proceed to court level, they are provided with services of barristers as and when required at court level.*

*Victims who call at the Family Support Bureaus are provided with all information pertaining to support services which include mainly psychological assistance, legal advice, assistance to victims of domestic violence for application of Orders*

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<sup>36</sup> Approximately \$ 800'000

<sup>37</sup> Government of Mauritius, *op. cit.*





*under the Protection from Domestic Violence Act, assistance to children victims of abuse as well as temporary accommodation in the shelter.*

*At present, the concept of Shelter in Mauritius is only focused on providing a temporary security place for battered women. There are two shelters to cater for victims of domestic violence. The Ministry is proposing to construct an additional shelter for women and children in distress.*

*Rehabilitation of victims of domestic violence is ensured through psychological counseling by a pool of Psychologists employed by the Ministry on permanent establishment. Moreover, under the Families in Distress Scheme, women victims of Domestic Violence who for various reasons cannot return to their previous residence are temporarily placed at a shelter following an Interim Protection Order. Upon their discharge from the shelter, they are given a one off allowance of Rs. 3000 to meet their immediate needs. In addition, in view of offering quality services to clients of Family Support Bureau, the Ministry has commissioned an evaluation of its Family Support Bureaus, which provide support to women victims of violence.*

*With a view to addressing the problem of domestic violence, a National Domestic Violence Committee comprising senior officials from different Ministries, department and NGOs has been set up in February 2009 by the Ministry to promote and adopt a coordinated approach in dealing with the scourge of domestic violence.*

*The National Domestic Violence Committee has as objective to ensure the coordination at central level and advise on policy matters relating to domestic violence; to assess and monitor the effectiveness of the Area Domestic Violence Committees (ADVC), which have been set up in the six (6) Family Support Bureaux of the Ministry.*

*The ADVC has been set up with key stakeholders from different Ministries and Departments to organize case conferencing in regard to actions taken by each*



*stakeholder on cases of domestic violence. The main objectives of the ADVK are inter-alia, to:*

- Reduce and prevent the incidence of domestic violence;*
- Provide accessible, reliable, timely and coordinated guidance on cases of domestic violence and ensure victims receive appropriate treatment and care; and*
- Create an environment free from any forms of violence for the family and the community.*

*Women who are victims of violence and who are not in gainful employment are referred to the 13 Employment Information Centres of the Ministry of Labour, Industrial Relations and Employment (Employment Division) for any possible employment opportunities. [...]*

*With a view to strengthening public awareness campaigns to combat domestic violence, the Ministry of Gender Equality, Child Development and Family Welfare is proposing to work with the Local Government Authorities to reach the community and people at grassroot level to sensitize them on issues relating to domestic violence. To enable officers working in the community to become well versed with our services and legislation pertaining to domestic violence, training programmes will shortly be organised at national and regional levels.*

*Through intensified campaigns, victims of domestic violence will be further informed on their rights to support services available on a 24-hr basis which will enable them to report cases easily.*

*[...] the Ministry will shortly come up with a new project known as “Youth Empowerment Programme to Combat Domestic Violence”. This programme will enable youth to grow up with a culture of non-violence and hence reduce the incidence of domestic violence in the long run.*

*The Ministry is also engaging Religious Bodies in the combat against domestic violence. Joint sensitisation programmes are being implemented with youth, men*



*and women to sensitize them on issues pertaining to domestic violence and involve them in the fight against domestic violence.*

*With a view to eliminating discrimination against women, especially in the workplace, the following measures have been taken at the level of the Ministry of Labour, Industrial Relations & Employment:*

*(i) in the recent review of two Remuneration Regulations in the Field Crop and Orchard and Livestock sectors, the discriminatory provisions prescribing wages on a gender basis have been removed. The wages are now prescribed on a job content basis;*

*(ii) in order to ensure equal opportunities for women and men in the labour market, provisions have been incorporated in the new Employment Rights Act (No. 33 of 2008) to the effect that no worker shall be treated in a discriminatory manner by his employer in his employment or occupation; [...]*

*(iii) specific provisions have been introduced in the Employment Relations Act 2008 for the protection of fundamental rights of workers. Section 29 of the new Act provides that every employee shall have the right to establish or join, as a member, a trade union of his own choice, without previous authorisation and without distinction whatsoever or discrimination of any kind including discrimination as to occupation, age, marital status, sex, sexual orientation, colour, race, religion, HIV status, national extraction, social origin, political opinion or affiliation.*

*(iv) Moreover, a specific provision has been made in the Employment Rights Act 2008 for protection against sexual harassment which affects women mainly. Severe penalties are laid down whereby any person who commits such an offence shall, on conviction, be liable to a fine not exceeding 75.000 Mauritian rupees and to imprisonment for a term not exceeding 2 years<sup>38</sup>.*

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<sup>38</sup> *Ibid.*



### 3.5.5. Rights of the child

*In order to eliminate all forms of discrimination and violence against the child in the family, the community, and at state levels, various mechanisms are in place and are effective. [...]*

*To create public awareness, sensitization and awareness campaigns targeted towards children are carried out on a regular basis through media by way of radio and television programmes. Talks are delivered to school children at primary and secondary levels and to parents, in regions at risks; and to the community at large with a view to sensitizing them on the protective needs of children against all forms of harm and abuse. [...]*

*Police Officers visit schools and deliver talks and lectures on a regular basis on child abuse and services available for the protection of children. [...]*

*Communities are being sensitized on the phenomenon of child abuse with a view to enabling them to initiate actions at their end when children are at risk. A surveillance mechanism has also been set up in high risk areas. A Capacity Building programme has been launched in May 2008.*

*Professionals such as Family Welfare & Protection Officers, Child Welfare Officers, Police Officers, Probation Officers, Medical Social Workers and NGOs working with children have been trained by a local consultant with a view to providing better services to victims of CSEC. The training programmes are ongoing. [...]*

*So far, a total of 831 Police Officers (both male and female) have been trained in course including Trafficking in persons and Sensitisation against sexual exploitation and abuse of minors. [...] Since January 2008, 500 crackdown operations have been conducted island-wide at regular intervals by Officers of the Ministry of Gender Equality, Child Development and Family Welfare, National Children's Council, Brigade des Mineurs (Police Department), in collaboration with NGOs to ensure that young persons and students are attending schools during normal school hours. Such*



*operations are seen to contribute in an efficient way to prevent young persons from playing truancy and loitering thereby getting involved in illicit activities [...]*<sup>39</sup>.

*The Combating of Trafficking in Persons Act was passed on 21 April 2009. The objectives of the Act are to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in persons; prevent and combat trafficking in persons; and protect and assist victims of trafficking. It provides for repatriation of victims of trafficking, and return of victims of trafficking to Mauritius, as well as compensation to victims of trafficking.*

*The Employment Rights Act 2008 defines a 'child' as 'a person under the age of 16' and a 'young person' as a 'person, other than a child, who is under the age of 18'. Section 12 (1) of the Act prohibits the employment of children whilst Section 12 (2) (a) prohibits the employment of young persons on work which is likely to jeopardise the health, safety, physical, mental, moral or social development of the young person. A child under the age of 16 cannot be employed even as an apprentice. The Employment Rights Act 2008 provides for penalties for failing to comply with any provision of the Act, that is, a fine not exceeding Rs 10,000<sup>40</sup> and a term of imprisonment not exceeding one year.*

*Officers of the Inspection and Enforcement Section of the Ministry effect systematic visits at undertakings and all places of work, thus covering both the formal and informal sectors of employment to detect and sanction cases of child labour.*

*Whenever a child is found in illegal employment, the employer is required to discontinue such employment and criminal action is taken against the employer accordingly<sup>41</sup>.*

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<sup>39</sup> *Ibid.*

<sup>40</sup> Approximately \$ 330

<sup>41</sup> Government of Mauritius, *op. cit.*



### 4. Beginning a brand new cycle

The purpose of following the recommendations received during the UPR at mid-term is to ensure that States are implementing them. The thirteenth session of the UPR was held in Geneva on May 2012; for the first time, States had to report on the implementation of recommendations, as they were the first States to be reviewed back in 2008. These States, namely Algeria, Bahrain, Brazil, Ecuador, Finland, India, Indonesia, Morocco, Netherlands, Philippines, Poland, South Africa, Tunisia and United Kingdom, were not reviewed at mid-term through the Follow-up Programme.

While 430 recommendations were made during the first UPR session (an average of 27 recommendations per State), 2434 recommendations were made during the twelfth session (an average of 152 recommendations per State). One can note the huge increase of the recommendation-fervour throughout the first cycle. As a consequence, following up and reporting on 430 recommendations is by far easier than with 2434 recommendations: from both a State under review and from a recommending State perspective, the first round of the second cycle is a warm-up. New challenges will arise when the sixteenth UPR session - based on the fourth UPR session - will take place in April 2013 and will have to take into account a luggage full of approximately 1'600 recommendations.

#### 4.1. From a State under Review perspective

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Information regarding the implementation is available in the national reports submitted by the States reviewed at the UPR in May 2012.

Most States provided updates on recommendations received either through a charter (India, South Africa) or by addressing recommendation by recommendation in a narrative way (notably Algeria, Bahrain, Ecuador, Finland, Morocco, Tunisia, UK). Brazil and the Philippines used a thematic format in order to follow up their recommendations, making it difficult to link with the Working Group report's



recommendations. The Netherlands' national report was intended to be an update to its previous mid-term report, released in April 2010.

It is worth noting that every State reviewed complied with its duty to follow up and report back on recommendations received at the Working Group session. However, an overall methodology is yet to be defined, especially in order to handle the standard number of recommendations of 130-160 recommendations per country.

### **4.1.1. Reporting the implementation: rejected and unanswered recommendations**

Out of 437 recommendations and voluntary pledges<sup>42</sup> which were supposed to be addressed in the National reports, only 373 were actually commented upon<sup>43</sup>. 352 were recommendations *stricto sensu*, and 85 were voluntary pledges (not suggested by recommending States, but the State under review committed to implement them).

Algeria did not respond to 11 recommendations and pledges, Bahrain to 13, Ecuador to 4, India to 1, Indonesia to 4, the Netherlands to 5, the Philippines to 1, Poland to 6, Tunisia to 8 and the United Kingdom to 11, totalling 64 recommendations and pledges with no definitive response<sup>44</sup>. With regard to the voluntary pledges, Bahrain, Ecuador, Poland and Tunisia did not provide an update on some of their own voluntary commitments (20 in total). Finally, only Brazil, Finland, Morocco, and South Africa provided comments to every recommendation and pledge (81 recommendations).

39 recommendations were rejected in total by the fourteen States reviewed at the UPR. However, States commented upon the majority of those recommendations

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<sup>42</sup> Fourteen States were reviewed only, instead of sixteen States reviewed at the first UPR session.

<sup>43</sup> All recommendations and voluntary pledges, and their responses in national reports can be found at the following web address: [http://www.upr-info.org/followup/index/page/13th\\_UPR\\_session](http://www.upr-info.org/followup/index/page/13th_UPR_session)

<sup>44</sup> Only State's comments clearly relating a recommendation or a voluntary pledge were considered as answering previous recommendations. In some cases, the states provided responses which could be considered as matching previous recommendations, but they did not specifically mention those possible recommendations. In order to avoid any misinterpretation, and considering that it is the duty of the states to be clear, we did not consider some comments as responding to previous recommendations, even if they were obviously related. Brazil and the Philippines were however exceptions to this methodology, since it would have not been possible to assess the implementation at all.





anyway (21 out of 39). Rejected recommendations remain legitimate concerns for all. Since the UPR is not a place to name and shame, but rather to debate in a constructive manner and to share best practices, it seems very important that the States explain why they reject recommendations suggested by the international community.

The rejected recommendations mainly related to special procedures (Algeria, Bahrain, and Indonesia), women's rights (Algeria, Ecuador, the Netherlands and Poland), poverty (Tunisia), and migrants/minorities (the Netherlands and the UK).

### **4.1.2. Reporting the implementation: updates provided on recommendations of the first cycle**

Addressing recommendations in national reports does not necessarily mean that recommendations were implemented. Firstly, it is sometimes hard to determine whether the response given by a State satisfactorily addresses the recommendation or pledge originally made. For instance, Bahrain responded to its voluntary pledge that the [Kingdom will commit to] *consider seriously the possibility of enacting a law on combating racial discrimination*, and it commented in its national report that *the possibility of promulgating such a law continues to be studied*. At first glance, considering the strong emphasis given by the word “seriously” in the pledge, the response given by the Kingdom is too vague to help us monitor the implementation status of the recommendation.

Secondly, it happens that even though States provided an update on the recommendations, their response indicates that either they did not yet implement or are not willing to implement them. South Africa was suggested by Romania *to ratify the International Covenant on Economic, Social and Cultural Rights*, and responded in the national report that [...] *The internal government processes are advancing and it is envisaged that [...] the South African government should be in a position to ratify the ICESCR and its Optional Protocol as soon as possible*. Same for Poland, which received recommendation from Mexico *to ratify the ICRMW*, and the State responded that *Poland is not bound by the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.





*Polish law guarantees most of the rights set forth in the Convention to migrant workers and members of their families. However, the ratification of the Convention would imply a need to introduce certain amendments to the legal acts governing migrant workers employed legally in Poland, and to make far-reaching changes with regard to the situation of illegal workers.*

Apart from these specific situations, it should be noted that many recommendations received in 2008 were reported to be implemented, as the following selected examples will demonstrate. The Brazilian example is very encouraging, with its concrete reforms on the access to public information (law enacted in 2011), prison system (national programme to support the prison system established in 2011, law on precautionary measures approved in 2011), indigenous people (special secretariat for indigenous health established in 2010), and right to food (inclusion as a social right under the Federal Constitution in 2010).

In 2010, Ecuador updated its national plan to combat human trafficking, smuggling of migrants, sexual, labour and other forms of exploitation, and prostitution of women, children and adolescents, child pornography and corruption of minors. Since 2011, the Ministry of the Interior has been responsible for the coordination of the national plan. The State also improved considerably the situation of detainees in prisons, building new detention centres and expanding existing prison facilities. In order to comply with the OP-CAT, Ecuador designated its Ombudsman's Office as the national mechanism for the prevention of crimes in prisons.

Indonesia is a good client of the main issue raised at the UPR, "international instruments" – in fact, 20 percent of recommendations are related to this topic. Indonesia was requested to *accede to the International Criminal Court, the OP-CRC on involvement of children in armed conflict, the OP-CRC on the sale of Children, child prostitution and child pornography, the OP-CAT, and the ICPED*. Indonesia claimed in its national report to have scheduled all signatures and ratifications requested in its third National Action Plan on Human Rights (2011–2014).

The Netherlands had already ratified the OP-CRC on involvement of children in armed conflict (ratified in 2009), the OP-CAT (2010) and the ICPED (2011). The



State also took measures similar in nature to tackle both human trafficking and discrimination. In 2009, *the Parliament passed a bill which increases the maximum penalties for trafficking in human beings. The change increased the maximum penalty for the basic crime from 6 to 8 years imprisonment; 10 years if two or more persons are acting in concert; 15 years in case of serious bodily injury; 18 years if the offence resulted in a person's death. A bill to raise the maximum penalties for THB further will be submitted to parliament in 2012.* In addition, the Kingdom explain regarding the fight against discrimination that *when someone is prosecuted for an offence which also involves discrimination, the Public Prosecution Service counts the discriminatory aspect as an aggravating factor when deciding what sentence to demand. Since 2009, discrimination is defined as an aggravating factor warranting a 50% increase in the sentence.*

Poland, aiming at addressing overcrowding detention centres, increased the number of prisoners' quarters, introduced alternative punishments such as electronic surveillance and extended the eligibility for parole. To tackle delays in court proceedings, the Polish Government adopted in 2009 an amendment to *oblige the courts to adjudicate sums of money in favour of the defendant, provided he or she has made such claim and it is wellgrounded. [...] In the period after 2008, Poland has also adopted organisational measures to speed up court proceedings by, for example: assigning assistants to judges, docketing cases dealing with minor offenses within a month's time from the date of their filing, or reassigning judges between court sections and courts. The General Prosecutor mandated appeal and regional prosecutors to take measures aimed at streamlining pre-trial proceedings. As a result, 2010 and 2011 saw a substantial decline in cases with proceedings exceeding two years.*

### 4.2. From a recommending State perspective

If the State under review is responsible for updating the Working Group members with the results obtained on the ground, the reviewing States (also known as recommending States) should closely monitor their own recommendations as well.



In comparing the recommendations that the 14 States under review received during the first cycle with those put forth in the recent thirteenth session, it appears that few recommending States followed up on their first cycle recommendations in the thirteenth session of the UPR. Indeed, only 16 percent (57 out of 343) of recommendations made in 2008 have been followed up by similar or additional recommendations at the thirteenth session. This would imply that 84 percent of the recommendations have been fully implemented. This seems doubtful knowing that the average percentage of recommendations fully implemented at the mid-term is approximately 12 percent. Furthermore, less than half of recommending States, who participated both in the first and second cycle, made similar or follow-up recommendations to the same States under review, thus missing the opportunity to comment on implementation and recommend further measures.

Recommending States which followed up first cycle recommendations have made recommendations in two main ways. In some cases States chose to reiterate their previous recommendations, resulting in new recommendations very similar to their past recommendations, while other States made recommendations which called on the State under review to take further steps in the same direction as previously recommended, recognising the outcome of their previously made recommendations.

For example, Ecuador and Egypt repeated their previous cycle recommendations to both Finland and the United Kingdom to sign and ratify the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). Mexico recommended Finland to continue to take effective measures to prevent violence against women in 2008 and to give special attention to the prevention of domestic violence against women and children in 2012. Slovenia recommended India in 2008 to amend the Special Marriage Act in the light of article 16 and the Committee's general recommendation 21 and in 2012 to amend the Special Marriage Act before its next UPR. The Russian Federation recommended that Poland and the United Kingdom take measures to reduce prison overcrowding at both cycles of the UPR.

The second way was for example Slovenia which called on the Philippines to **consider** the ratification of the Optional Protocol to CAT (OPCAT), by calling on the



Philippines through its 2012 recommendation to **withdraw** its reservations to OPCAT. The Russian Federation also followed up carefully a recommendation made to the Netherlands in 2008 and rejected by the latter, asking to **consider** withdrawal of reservations with respect to the CRC. In 2012, the Russian Federation recommended the Netherlands to **reconsider** the possibility of lifting reservations to the CRC. Mexico, with slight change in wording, recommended Poland in 2008 to **ensure** that practical policies in the area of immigration be geared to the standards set forth by the principles enshrined in the ICRMW. In 2012, Mexico recommended Poland to **adopt measures** to adapt the migratory policies to the standards established by the ICRMW. As one can see, last recommendation is more specific, requesting more action.

This exercise in May 2012 was a experiment before the next UPR sessions that will be more substantial; few recommendations were made during the first UPR session in 2008, and new challenges will rise when several States which received more than 100 recommendations will be reviewed.

### 4.3. Challenges for the second cycle

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Challenges for the second cycle are four-fold: recommendations should be more precise and *monitorable*, recommendations should be carefully followed up by recommending States, the States under review should report at mid-term and finally, a methodology aiming to address the increasing number of recommendations should be established.

- Precision of recommendations: since it is clearly stated that the UPR has to be action-oriented<sup>45</sup>, **recommendations made at the UPR should be more precise and univocal**. It will guarantee more efficient implementation and more detailed assessment of the level of implementation. The current situation, where only 35 percent of recommendations are of category 5, is not satisfactory.

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<sup>45</sup> Resolution 5/1, art. 3, let. d



**Precision:** Recommendations should be S.M.A.R.T. (specific, measurable, achievable, relevant and time-bound). Vague recommendations should be avoided: how can one assess whether the recommendation “improving human rights” has been implemented?

**Univocality:** Moreover, recommending States should choose their wording more carefully: assessing a recommendation “to sign and ratify the protocol” is not the same as “to ratify the protocol”; the first one can be considered as partially implemented if the State signed “the protocol”, unlike the second one. While having States signing conventions is important, to have them ratifying conventions is still more important. Thus in all cases the second kind of recommendations should have prevalence for the recommending States.

- **Recommending States have to carefully follow their own recommendations.** This is perhaps the most crucial challenge; if not addressed, the UPR will undoubtedly become a meeting where States will not feel as accountable for recommendations made during the Working Group session. The review in Geneva would be a place merely to raise concerns, without any obligation to comply with them. The HRC has already envisaged *cases of persistent non-cooperative States*<sup>46</sup>. However, in order to determine such cases, recommendations have to be repeated various times. Hence the importance of following a recommendation made, and to make it again if not implemented by the reviewed State.
- *States are encouraged to provide the Council, on a voluntary basis, with a **midterm update on follow-up to accepted recommendations***<sup>47</sup>. 23 States submitted a mid-term report out of 127 potential “candidate States” (the number of States reviewed by May 2010). In other words, only 18 percent of States voluntarily provided an update on the recommendations received. However, in order to keep States and ministries involved in implementing

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<sup>46</sup> Resolution 5/1, art. 38: “After exhausting all efforts to encourage a State to cooperate with the universal periodic review mechanism, the Council will address, as appropriate, cases of persistent non-cooperation with the mechanism”.

<sup>47</sup> Resolution 16/21, let. E, § 18



recommendations, it benefits all to demonstrate measures taken at mid-term since the UPR.

- Both States under review and recommending States should realistically **start to prepare how to address the challenge of increasing the number of recommendations**. An interesting solution found by India and South Africa was to provide, as an annex to their national report, a comprehensive charter including all (accepted) recommendations. As a result, every recommendation is clearly addressed, or at least recommendations not addressed can be easily identified as such. For the sake of clarity, this method should be truly promoted. Recommending States will have to cover at the same time recommendations previously made and new events in the country reviewed. This is going to be challenging, particularly since the time allowed for taking the floor has been shortened<sup>48</sup>.

Data collected under the aegis of the Follow-up Programme demonstrated very encouraging progress in implementing recommendations at mid-term. The UPR is efficient; however, many challenges are acute and need to be carefully envisaged by the international community as soon as possible.

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<sup>48</sup> Starting with the second cycle, all States will be given the floor. If needed be, time per speakers will be reduced to two minutes each or the 140 minutes will be divided by the number of speakers.



### 5. Methodology

Aiming at keeping the universality of the UPR, *UPR Info* carefully followed the basic principles of universality, equal treatment and an integrative approach. Every stakeholder was notably invited to participate in the Follow-up Programme.

#### 5.1. Contacting every stakeholder

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In order to assess 66 countries, *UPR Info* applied the same procedure for data collection for all States:

1. *UPR Info* contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. *UPR Info* contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted (when it existed).

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted.

#### 5.2. Implementation Recommendation Index (IRI)

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*UPR Info* developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at



all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

### 5.3. Rejected recommendations

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The reviews at mid-term address every recommendation received at the UPR, even rejected ones. It could seem surprising, but *UPR Info* considers that each rejected recommendation should be taken into account, since it:

- Remains a valid concern of the international community. The very same rejected recommendation could be suggested again in the next UPR;
- Has to be addressed, since some States rejected over half of recommendations. If we focus only on accepted recommendations, it would be a *carte blanche* for all States which will be encouraged to reject recommendations in order to avoid any kind of debate;
- Action is taken by States with 15 percent of rejected recommendations. It clearly shows that rejecting a recommendation sometimes is only a temporary response.



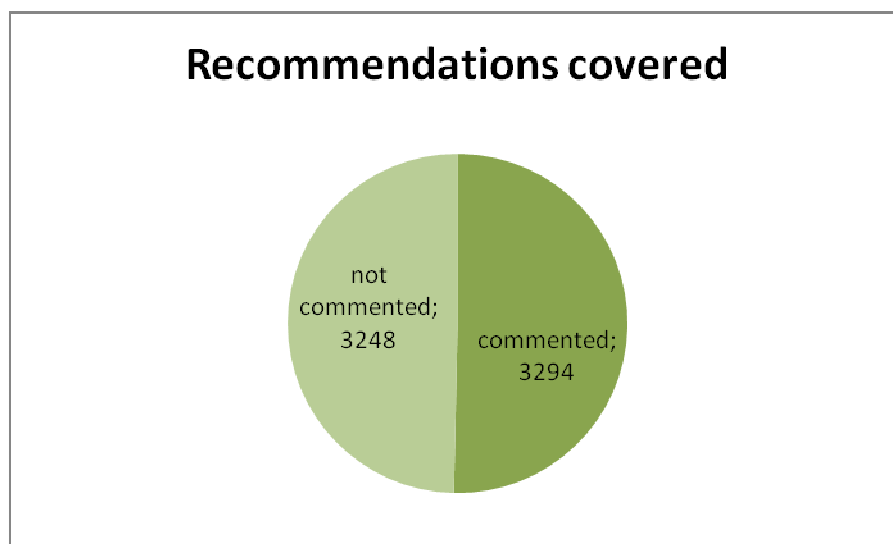


Moreover, while *UPR Info* clusters UPR recommendation through 4 categories<sup>49</sup>, the OHCHR, according the resolution 5/1, either considers recommendations as “accepted” or “noted”<sup>50</sup>. There is no explicit way for States to reject recommendations. It is true that States are supposed to both implement “accepted recommendations” and voluntarily provide mid-term reports on “accepted recommendations”. Still, rejecting recommendations is not a practice spelt out in any UN resolution.

### 5.4. Data

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Slightly more than 50 percent of all recommendations made during sessions 2 to 6 were covered by the Follow-up Programme. *UPR Info* received comments on 3’294 recommendations out of 6’542 made to 66 countries reviewed.



The list of 66 countries is as following:

Afghanistan, Albania, Azerbaijan, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia,

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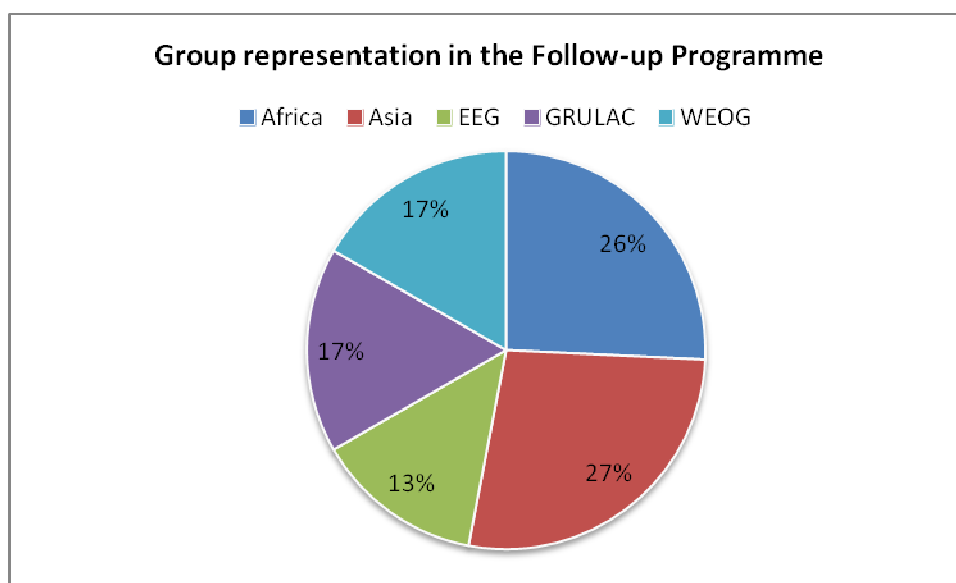
<sup>49</sup> See note 2.

<sup>50</sup> Resolution 5/1, § 32: *Recommendations that enjoy the support of the State concerned will be identified as such. Other recommendations, together with the comments of the State concerned thereon, will be noted.*



Comoros, Costa Rica, Cuba, Cyprus, Democratic People Republic Of Korea, Democratic Republic Of Congo, Djibouti, Dominica, Dominican Republic, Equatorial Guinea, Eritrea, Ethiopia, France, Germany, Israel, Jordan, Liechtenstein, Luxembourg, Macedonia FYR, Malaysia, Mali, Malta, Mauritius, Mexico, Monaco, Montenegro, New Zealand, Nigeria, Norway, Portugal, Republic Of Congo, Romania, Russia, Saudi Arabia, Senegal, Serbia, Slovakia, Tonga, Turkmenistan, Tuvalu, United Arab Emirates, Uruguay, Uzbekistan, Vanuatu, Viet Nam and Yemen.

When these countries are clustered by regional groups, we obtain this figure:



### 5.5. Action categories of *UPR Info*

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The ranks are established according to following criteria:

Rank 1: Recommendation directed at non-SuR, or calling upon the SuR to request technical assistance, or share information (Example of verbs: call on, seek, share).

Rank 2: Recommendation emphasizing continuity (Example of verbs: continue, maintain, persevere, pursue).

Rank 3: Recommendation to consider change (Example of verbs: analyse, consider, envisage envision, explore, reflect upon, revise, review, study).



Rank 4: Recommendation of action that contains a general element (Example of verbs: accelerate, address, encourage, engage with, ensure, guarantee, intensify, promote, speed up, strengthen, take action, take measures or steps towards).

Rank 5: Recommendation of specific action (Example of verbs: conduct, develop, eliminate, establish, investigate, undertake as well as legal verbs: abolish, accede, adopt, amend. implement, enforce, ratify).

### Principles

When there is a perfectly even rationale for two different actions in a recommendation, emphasis is generally placed on the first action.

When a recommendation starts with two verbs, the second one is privileged. Ex: “Continue and strengthen...” -> category 4.

When a recommendation starts with a general action but then provide examples of specific actions, it is considered as category 5. Ex: “Improve women’s rights by amending the family code”.

### 5.6. Liste of acronyms

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CAT	Convention against Torture, Cruel, Inhuman and Other Degrading Treatment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
HRC	Human Rights Council
ICC	Rome Statute of the International Criminal Court



ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICPED	International Convention on the Protection of All Persons from Enforced Disappearance
MIA	Mid-term Implementation Assessment
NGO	Non-governmental organisation
NHRI	National Human Rights Institution
OHCHR	Office of the High Commissioner for Human Rights
SuR	State under review
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review



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the Universal Periodic Review*  
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