

Malta

Mid-term

Implementation

Assessment



UPR-INFO.ORG
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW



Introduction

1. Purpose of the follow-up programme

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, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 22 March 2012



Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/malta>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports, as well as the unedited comments can be found at the same internet address.

3 NGOs were contacted. The Permanent Mission to the UN was contacted. No domestic NHRI does exist.

2 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

IRI: 5 recommendations are not implemented, 3 recommendations are partially implemented, and 0 recommendation is fully implemented. No answer was received for 69 out of 77 recommendations.

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
15	Sexual Orientation and Gender Identity	page 4	partially impl.
26	Sexual Orientation and Gender Identity, Minorities, Human rights education and training, Disabilities, Asylum-seekers - refugees,	page 4	partially impl.
33	Right to health, Right to education,	page 4	partially impl.
37	Sexual Orientation and Gender Identity	page 5	not impl.
39	Torture and other CID treatment, Rights of the Child,	page 5	not impl.
44	Torture and other CID treatment, Rights of the Child,	page 5	not impl.
58	Sexual Orientation and Gender Identity	page 5	not impl.
75	UPR process, Civil society,	page 6	not impl.



3. Feedbacks on recommendations

Minorities & Indigenous

Recommendation n°26: *Adopt further measures to fight discrimination and promote, including through awareness-raising campaigns, the realization of human rights by all persons belonging to minorities, including foreigners, refugees, persons with disabilities and persons of minority sexual orientation or gender identity.* (Recommended by Czech Republic)

IRI: *partially implemented*

ILGA response:

Some awareness raising through the 'Think Equal' Campaign. There have recently been some concrete measures with regards to the extension of hate crime legislation to the grounds of sexual orientation and gender identity following two incidents on lesbian couples. The proposed amendments are expected to be tabled in parliament on Monday 20th February.

Sexual Orientation and Gender Identity

Recommendation n°15: *Do its utmost to combat all forms of discrimination, including discrimination based on sexual orientation.* (Recommended by Belgium)

IRI: *partially implemented*

ILGA response:

While a project was undertaken by the National Commission for the Promotion of Equality (NCPE) called 'Think Equal' there were no other real and effective measures implemented. The remit of the NCPE is still limited to the grounds of gender and race. However, from a recent meeting with Minister Chris Said, it seems that the necessary legislative amendments should be tabled in parliament in the near future. There is no anti-discrimination legislation protecting LGBT people outside of employment. Again, following a meeting with Minister Chris Said held on the 3rd of February, the Ministry has requested a brief on the proposed amendments to the current anti-discrimination legislation covering the grounds of race and ethnic origin from MGRM's legal advisor and Aditus Foundation Chair Dr Neil Falzon. There are no specific policy or guidelines in schools with regards to homophobic and transphobic bullying and harassment of students and staff.

Recommendation n°33: *Formulate a national policy on sexual education.* (Recommended by Finland)

IRI: *partially implemented*

ILGA response:

A sexual health policy and strategy were published. However sexual education in schools is delegated to the Directorates of Educational Services and Quality Assurance in Education. This has yet to be published.

Recommendation n°37: *Provide for arrangements for same-sex couples to enjoy some of the rights and obligations enjoyed by non-same-sex couples.* (Recommended by *France*)

IRI: *not implemented*

ILGA response:

While the government has mentioned the possibility of introducing cohabitation legislation that would also include cohabiting same-sex couples, the bill has not yet been published and the extent of rights to be included in the proposed bill is not known.

Recommendation n°58: *Take further measures to advance equality on the ground of sexual orientation and gender identity, using the Yogyakarta Principles, among others, as a guide for policy-making.* (Recommended by *Netherlands*)

IRI: *not implemented*

ILGA response:

In December 2010 the Malta Gay Rights Movement published a proposed Gender Identity Law for Malta that would facilitate the gender recognition of transpersons. The Bill was presented in parliament as a private members bill by opposition MP Evarist Bartolo. It is yet to be put on parliament's agenda. In December the then Minister for Justice and Home Affairs, Dr Carmelo Mifsud Bonnici announced that the invasive medical exam that was part of the court procedure to ascertain irreversible gender reassignment would no longer be required on presentation of the appropriate documentation. This measure is still pending.

Women & Children

Recommendation n°39: *Explicitly and entirely prohibit any kind of corporal punishment of children by law, even in cases of so-called reasonable chastisement within the family* (Recommended by *Germany*)

IRI: *not implemented*

GIEACP response:

n/a (no changes to legality)

Recommendation n°44: *Explicitly and entirely prohibit any kind of corporal punishment of children by law, even in cases of so-called reasonable chastisement within the family* (Recommended by *Italy*)

IRI: *not implemented*

GIEACP response:

n/a (no changes to legality)



Other

Recommendation n°75: *Continue its process of consultation with civil society in its follow-up to this review.* (Recommended by *United Kingdom*)

IRI: *not implemented*

ILGA response:

No consultation meetings were held with Civil Society with respect to this review that MGRM is aware of.



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We 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 whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

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, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the



recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

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

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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