



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

29 April 2019

Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Malta and welcome the constructive engagement of your Government during the 31st session of the UPR Working Group in November 2018.

As the final outcome report of the review of Malta has been recently adopted by the Human Rights Council at its 40th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Malta – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying those areas, I have also considered the statements and/or recommendations made by 64 delegations, the presentation and responses made by the delegation of Malta and the actions taken by your Government to implement the 73 recommendations it had accepted during the second cycle of the UPR. The aforementioned areas cover a range of issues and appear in the Annex to this letter.

I welcome the fact that Malta has adopted laws, strategies or plans in key areas, including the promotion of gender equality, the prevention of gender-based and domestic violence, the protection of the rights of children, the fight against trafficking in persons, the protection of the rights of persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, migrants, refugees and asylum seekers.

I call on the authorities to ensure the effective implementation of those laws, strategies and plans, including by allocating sufficient budget for their implementation in line with international human rights standards, in order to achieve concrete results in the areas highlighted in the Annex to this letter and to facilitate the preparations for Malta's fourth cycle of the UPR. The implementation of such strategies and plans should be carried out in close consultation and cooperation with all stakeholders, in particular national human rights institutions and civil society organizations, and, where necessary, the support of international organizations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR).

H.E. Mr. Carmelo Abela
Minister for Foreign Affairs and Trade Promotion
Malta



I encourage Malta to continue its efforts to strengthen its national mechanism for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and treaty obligations, and linking this to the Sustainable Development Goals. I strongly recommend the use of the practical guide that my Office released in 2016 on this topic, which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can contribute positively to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage Malta to consider submitting a mid-term report on the follow-up of the third cycle of the review, by 2021.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist Malta in relation to the areas identified in this letter and its Annex.

Please, accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
High Commissioner for Human Rights

cc: H.E. Ms. Helena Dalli,
Minister for European Affairs and Equality
Malta



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.
- Withdrawing the declaration to article 11 and the reservations to articles 13, 15 and 16, paragraph 1(e) of the Convention on the Elimination of All Forms of Discrimination against Women, as well as the reservations to articles 13, 14, 19, 20 and 22 of the International Covenant on Civil and Political Rights.

National human rights framework

- Establishment of a national human rights institution with broad competence in the field of human rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Ensuring the implementation of its legal framework on anti-discrimination and equality in order to effectively combat all forms of discrimination, as well as strengthening measures to prevent direct and indirect discrimination on the basis of race or ethnicity in access to housing, employment and health care.
- Ensuring that cases of racially motivated violence are effectively investigated, that the perpetrators are prosecuted and punished, and that appropriate compensation is awarded to victims.
- Combating hate speech, preventing incitement to racial hatred, and bringing those responsible to justice.
- Strengthening efforts to prevent and combat bullying and harassment of lesbian, gay, bisexual and transgender students in educational settings, and put an end to any form of social stigmatization of homosexuality, bisexuality or transsexuality.

Development, the environment, and business and human rights

- Stepping up efforts to combat corruption, including by ensuring effective investigations and, where appropriate, prosecutions and the full implementation of the European anti-money-laundering directives and full transparency in public funds management.
- Development of a national action plan in accordance with the United Nations Guiding Principles on Business and Human Rights.

B. Civil and political rights

Administration of justice, including impunity, and the rule of law

- Guaranteeing that the judiciary effectively addresses the issue of lengthy delays in the administration of justice and ensures that its decisions are reached within a reasonable period.
- Ensuring that all persons deprived of their liberty have effective access to a lawyer, including during police interrogation.
- Improvement of living conditions in detention centres, including by providing adequate sanitary conditions and health-care services.
- Reviewing legislation to ensure the independent and effective functioning of the national preventive mechanisms and their access to all types of places where persons are deprived of their liberty and to all documentations concerning allegations of ill-treatment, and providing the mechanisms with appropriate human and financial resources.
- Ensuring that children between 16 and 18 years of age are tried by special juvenile courts, upholding the principle that detention and incarceration of children should be used as a last resort only, and separating persons below the age of 18 from adults in correctional facilities and detention centres.

Fundamental freedoms and the right to participate in public and political life

- Considering the decriminalization of defamation and repealing title IV of the Criminal Code, which provides for crimes against religious sentiment and criminalizes the vilification of the Roman Catholic religion and other religions.
- Ensuring the protection and safety of journalists to carry out their professional duties, especially those working to uncover corruption, including by effectively investigating cases of threats, intimidation and violence against journalists and bringing the perpetrators to justice and by guaranteeing that journalists do not become target of strategic lawsuits against public participation.
- Reforming legal provisions to allow prisoners to vote and introducing explicit provisions to allow for national and international election observations.

Prohibition of all forms of slavery

- Combating trafficking in persons, including by effectively implementing its Fourth National Action Plan on Combating Trafficking in Persons, and improving the identification of victims, especially children, irregular migrants and asylum seekers.
- Intensifying efforts to prevent trafficking in human beings for the purpose of labour exploitation, including by further sensitising relevant officials about trafficking for labour exploitation.
- Strengthening the investigation and prosecution of trafficking-related crimes and ensuring adequate protection, assistance and compensation to victims.



C. Economic, social and cultural rights

Right to health

- Continuing efforts to improve mental health services, including by increasing investment in psychiatric hospital Mount Carmel, and raising awareness on mental health issues in order to address stigmatization.

Right to education

- Continuing efforts to tackle the high rate of children discontinuing schooling after completion of compulsory education at the age of 16, including by implementing a strategic plan aimed at reducing the number of children leaving school early.
- Incorporation of human rights education in the school curriculum.
- Ensuring comprehensive sexual education in schools.

D. Rights of specific persons or groups

Women

- Strengthening efforts to prevent and punish cases of violence against women, including domestic violence, provide access to justice and social care and rehabilitation services to the victims, and ensure that such cases are effectively investigated.
- Revising legislation criminalising abortion to make exceptions to the general ban on abortions, including for therapeutic purposes and when the pregnancy is the result of rape, as well as ensuring access to safe, affordable and modern means of contraception, and that reproductive health services are accessible to all women and girls throughout the country.
- Taking additional measures to advance women's participation in the public and private sectors, particularly their representation in decision-making positions.

Children

- Ending the practice of placing children exhibiting challenging behaviour in a closed psychiatric facility.

Persons with disabilities

- Adoption of a human rights-based approach to the protection of the rights of persons with disabilities in law and in practice.
- Strengthening the enforcement of employment quota for persons with disabilities, including by increasing fines and penalties on those that do not comply with the statutory quota.
- Reforming provisions for assisted voting in order to guarantee the rights of persons with disabilities, particularly persons with visual or intellectual impairment, to vote by secret ballot, and withdrawing its reservation to article 29 of the Convention on the Rights of Persons with Disabilities to that end.



- Continuing efforts to promote inclusive education for children with disabilities.

Migrants, refugees and asylum seekers

- Ensuring full respect of the principle of non-refoulement, including through prompt disembarkation and reception of migrants and refugees rescued at sea.
- Continuing efforts to ensure non-custodial alternatives to detention of migrants and asylum seekers and that detention is applied when necessary, reasonable, proportionate to a legitimate purpose, non-discriminatory and subject to judicial review.
- Maintaining an effective system for migrant detainees to be able to challenge expulsion and detention orders, and that fully guarantees the right to free legal assistance in expulsion, detention and asylum procedures to all migrants, refugees and asylum seekers in law and in practice.
- Intensifying efforts to improve material conditions in the open centres, and consider adopting a long term plan for alternative placement, including a community-based approach to housing.
- Strengthening efforts to provide asylum seekers, refugees and migrants with effective access to education and to ensure that no child is denied his or her right to education.
- Ensuring that all beneficiaries of international protection are entitled to family reunification, and that family reunification procedures are effective in guaranteeing the right to family life.

Stateless persons

- Setting up a statelessness determination procedure to ensure the identification of stateless persons in Malta, and strengthening national legislation and policies to prevent statelessness.
- Ensuring that all children born in Malta or to a Maltese parent are guaranteed, without discrimination, their right to a nationality, including by removing the five-year legal residence requirement, and adopting measures to fully implement the legal safeguard so that no child is born stateless in Malta.