

Advance Version

Distr.: General
19 February 2019

Original: English

Human Rights Council
Fortieth session
25 February–22 March 2019
Agenda item 6
Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Malta

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

Responses of Malta to the recommendations contained in paragraphs 110, 111 and 112 of the report of the Working Group on the Universal Periodic Review (A/HRC/40/17)

1. Malta thanks all delegations for their recommendations, comments and questions.
2. Out of the 157 recommendations received, Malta accepts 122 recommendations, partially accepts 8 recommendations and takes note of the remaining 27 recommendations.
3. After careful consideration, Malta is pleased to provide the following responses, to be included in the outcome report.

Human rights protections (International instruments)

4. Malta supports recommendations: 110.1, 110.2, 110.3, 110.4, 110.5, 110.6, 110.7, 110.8, 110.9, 110.10, 110.11, 110.12, 110.13, 110.14, 110.15, 110.17, 110.18, 111.1, 111.7, 111.8.
5. Malta partially supports recommendations: 111.2, 111.3, 111.13, 111.15.
6. Malta takes note of recommendations: 111.4, 111.5, 111.6, 111.9, 111.10, 111.11, 111.12, 111.14, 111.16, 111.17, 111.19, 112.1, 112.2.

UN treaty bodies

110.1

7. Malta already enjoys good cooperation with United Nations treaty bodies and intends to continue to foster such relations.

Paris Principles

110.2, 110.3, 110.4, 110.5, 110.6, 110.7, 110.8, 110.9, 110.10, 110.11, 110.12, 110.13, 110.14, 110.15, 111.15

8. In 2014, the Maltese Government initiated a wide consultation with various stakeholders to discuss the establishment of an independent, national human rights institution in line with the Paris Principles. Other consultation processes followed suit.
9. The Bill establishing the Human Rights and Equality Commission, replacing the current equality body and holding strengthened powers to ensure equality and non-discrimination in all spheres of life, is at an advanced drafting stage.
10. The legal structure of the Parliamentary Ombudsman Institution is already an independent structure and does not need to be strengthened further, also in view of the forthcoming establishment of the Human Rights and Equality Commission. Thus, with respect to 111.15, Malta supports the part of the recommendation relating to the strengthening of the independence and mandate of the National Commission for the Promotion of Equality and its compatibility with the Paris Principles and takes note of the part relating to the Parliamentary Ombudsman Institution.

CEDAW (and OP)

111.1, 111.2, 111.3, 111.7, 111.13

11. Malta will sign and ratify the Optional Protocol to CEDAW and will continue to explore a possible withdrawal of its reservations to the Convention. With respect to 111.2 and 111.13, Malta supports the parts of the recommendations relating to the ratification of the Optional Protocol to the CEDAW and takes note of the parts relating to the withdrawal

of its reservations to the CEDAW. With respect to 111.3, Malta supports the first part of the recommendation (ratify Optional Protocols to CEDAW).

CRC (and OP3)

111.3, 111.4, 111.6

12. Malta intends to ratify Optional Protocol 3 to the CRC on communications procedure following the CRC's incorporation into Maltese law. With respect to 111.3, Malta takes note of the second part of the recommendation relating to the ratification of the Optional Protocol to the CRC.

OP-ICESCR

111.5, 111.8

13. Malta will consider accession to the Optional Protocol to the ICESCR but it cannot commit to it at this stage.

CRPD

111.12

14. Internal discussions are ongoing to draw a solution in partnership with interested stakeholders such as the Commission on the Rights of Persons with Disability and the Electoral Commission.

OP-CAT

111.19

15. Malta already provides adequate human, financial and logistical resources to the National Preventive Mechanism under the OP-CAT.

Promoting equality and protecting the rights of individuals and vulnerable groups

16. Malta supports these recommendations: 110.16, 110.19, 110.20, 110.21, 110.22, 110.23, 110.24, 110.25, 110.26, 110.27, 110.28, 110.29, 110.30, 110.31, 110.32, 110.33, 110.38, 110.56, 110.57, 110.58, 110.59, 110.60, 110.61, 110.62, 110.63, 110.64, 110.65, 110.66, 110.67, 110.68, 110.69, 110.70, 110.71, 110.72, 110.73, 110.74, 110.75, 110.76, 110.77, 110.78, 110.79, 110.80, 110.81, 110.82, 110.83, 110.84, 110.85, 110.86, 110.87, 110.88, 110.89, 110.90, 110.91, 110.92, 110.93, 110.94, 110.95, 110.96, 110.97, 110.98, 110.99, 110.100, 110.101, 110.102, 110.103, 110.104, 110.105, 110.106, 110.107, 110.108, 110.109, 110.110, 110.111, 110.112, 111.21, 111.36, 111.37.

17. Malta partially supports these recommendations: 111.31, 111.32, 111.33, 111.34.

18. Malta takes note of these recommendations: 111.20, 111.29, 111.30, 111.35, 111.38, 111.39, 112.3, 112.4, 112.5, 112.6.

Equality and non-discrimination policy

110.16, 110.19, 110.20, 110.21, 110.22, 110.23, 110.24, 110.25, 110.26, 110.27, 110.28, 110.31, 110.32, 110.101, 110.104, 110.108, 110.109, 110.112

19. In 2015, Government set up the Human Rights and Integration Directorate which is empowered to develop legislative and policy measures to enhance and promote the principle of equality and non-discrimination and address the inclusion of minority groups.

20. The 2014 consultation regarding the national human rights institution (*see* para. 8 and 9 above) also addressed equality legislation. An Equality Bill covering all spheres of life and various grounds of non-discrimination is at an advanced drafting stage. The Bill also introduces an array of equality duties that would address structural discrimination and introduce an obligation to promote equality for all in all spheres of life.

21. Furthermore, Government will be bound to adopt an Equality Strategy and Action Plan to prevent discrimination and promote equality.

22. Additionally, any threatening, abusive or insulting words or behaviour, or the display of any written or printed material which is threatening, abusive or insulting, with intent thereby to stir up violence or hatred against another person or group of persons on the basis of the protected characteristics is construed as a form of discrimination.

Combatting hatred

110.29, 110.30

23. Government is extending national legislation combatting incitement to racial hatred and other forms of hate speech, whether against foreigners or any other group (*see* para. 22 above). This will raise further awareness in society and should result in better enforcement of the law.

Sexual and reproductive health and rights policy

110.38, 112.3, 112.4, 112.5, 112.6

24. Malta reiterates that the right to life is an inherent right of every human being, including the unborn child, from its conception.

110.82, 110.83, 110.84

25. In furtherance to the enactment of the Gender Identity, Gender Expression and Sex Characteristics Act, 2015 and the Embryo Protection (Amendment) Act, 2018, the Government remains committed in its efforts to implement and raise awareness on sexual and reproductive health rights in Malta, including for gender minorities.

26. In 2016, sale of over-the-counter emergency contraception became possible.

27. In 2017, changes in Maltese law ensured 100 hours of leave for couples undergoing medically assisted procreation.

28. In 2018, the Embryo Protection Act was amended to allow access to in-vitro fertilisation to single women and same-sex couples.

29. A Gender Wellbeing Clinic was also established and started operating in November 2018, offering multi-disciplinary services to trans, intersex and genderqueer individuals.

Combating trafficking in persons

110.56, 110.57, 110.58, 110.59, 110.60, 110.61, 110.62, 110.63, 110.64, 110.65, 110.66, 110.67, 110.68

30. The budget allocated for combating human trafficking and assisting victims of exploitation was increased significantly, covering measures which include the launching of a national public awareness campaign and an exit programme for victims of prostitution.

31. Social welfare services in Malta have 4 premises in which there is a total capacity of 32 beds which are specifically used for human trafficking victims. (*see* para. 36 and 37 below).

32. The Government of Malta plans to get civil society organisations closer to the operational side of its national anti-trafficking strategy. In October 2018, it also announced that it is considering including human trafficking education in the national education curriculum. Training for all relevant stakeholders and government officials has also already started.

Gender-based violence and domestic violence

110.74, 110.75, 110.76, 110.77, 110.78, 110.79, 110.80, 110.81

33. In 2014, Malta ratified the Istanbul Convention and subsequently amended its legislation and policy to bring them in line with the Convention, particularly by adopting the Gender-based Violence and Domestic Violence Act and a corresponding strategy and action plan.

34. The strategy seeks to address the four main pillars under the Convention by implementing two projects – *Full Cooperation: Zero Violence* (2017-2018) and *Breaking the Cycle of Violence* (2018-2020).

35. Malta will continue to take necessary measures to protect women and children from violence, including through the stepping up of law-enforcement measures and offering training as necessary.

111.32, 111.33, 111.34

36. Over the last two years, social welfare services in Malta increased their bed capacity for both victims of domestic violence and human trafficking. The number of shelters is not expected to increase prior to the next UPR review of Malta.

37. In view of the above, with respect to 111.32, Malta supports the first and third parts of the recommendation relating to the intensification of its efforts to eliminate violence against women and children, due investigation of cases of violence against them, provision of access to justice for all women and improvement of the training for the staff of legal institutions and the police force, while it takes note of the second part relating to the increase of the number of shelters. With respect to 111.33, Malta supports the first part of the recommendation (continue and intensify efforts to eliminate violence against women and children by duly investigating cases of violence against them) and takes note of the second part relating to the establishment of a rehabilitation system for victims. With respect to 111.34, Malta supports the parts of the recommendation relating to the intensification of its efforts to eliminate violence against women and children, due investigation of cases of violence against them, the provision of access to justice to all women, and the improvement of training on these issues for the staff of legal institutions and the police force, while it takes note of the parts relating to the establishment of a rehabilitation system for victims, and the increase in the number of shelters.

Women

110.85, 110.86, 110.87, 110.88, 110.89, 111.31

38. As a result of various initiatives, the female employment rate in Malta increased by 14.5% in five years (from 50.8% in Q3 2013 to 65.3% in Q3 2018), and more women are employed in full-time jobs. These efforts will increase once the Gender Equality Mainstreaming Strategy and Action Plan is adopted.

39. Malta will provide greater attention to the need to reduce the gender pay gap (currently at 11%) and horizontal and vertical segregation in the labour market. However, differential pay between different jobs requiring different skills and competences will remain possible. Thus, with respect to 111.31, Malta supports the first part of the recommendation (continue efforts to achieve gender equality, especially in the labour market) and takes note of the second part relating to the elimination of wage disparities.

40. Measures intended to increase the number of women in elected office are currently being formulated and a public consultation will follow suit. Targets for a minimum of 40% of the underrepresented gender on governing bodies are also included in the Equality Bill (*see* para. 19 and 20 above) and will become enforceable once the law is enacted.

Children

110.90, 110.91

41. Malta reviewed the Child Protection Act, formally reforming practices in the childcare system, such as streamlining timeframes for the issuing of protection orders, as well as providing five different types of orders as opposed to the one available before.

Persons with disabilities

110.93, 110.94, 110.95, 110.96, 110.97

42. Malta adopted a series of legal acts to implement the CRPD in national law. Amongst these, the Commission for the Rights of Persons with Disability gained more competences and full independence from Government, while persons with disabilities were legally included in governing bodies of public entities.

43. In 2016, the Maltese sign language was established as a national language through the adoption of a dedicated Act.

111.35

44. A Braille system was implemented for blind persons who are Braille-literate. Internal discussions are ongoing to put in place the necessary structures for this voter eligibility procedure for the benefit of persons who are Braille-illiterate and those with intellectual impairment.

Protecting the rights of migrants, refugees and asylum seekers

110.98, 110.99, 110.100, 110.102, 110.103, 110.105, 110.106, 110.107, 110.110

45. The Equality Bill will significantly promote and strengthen the rights of migrants and their protection from discrimination (*see* para. 19 to 22 above). Malta will continue making the necessary efforts to protect the rights of migrants in order to strengthen a culture of tolerance, diversity and non-discrimination.

110.111, 111.21, 111.36

46. The Agency for the Welfare of Asylum Seekers conducts ongoing maintenance work at the Initial Reception Centre and the Open Centres. Plans are in hand to build a new

Open Centre with a view to providing improved accommodation services and to increase Malta's Reception Capacity.

47. The Maltese system already has specialised centres for vulnerable persons, including minors. Malta enacted legislation barring detention of children while providing the necessary assistance to unaccompanied minors. It further provided for legal assistance to asylum seekers regardless of age.

111.37

48. Malta supports this recommendation. It notes that the time of residence required before applying for Maltese citizenship is currently set at 5 years and not the 18 years referred to in the recommendation.

Justice and security

49. Malta supports recommendations: 110.34, 110.35, 110.36, 110.37, 110.39, 110.40, 110.41, 110.42, 110.43, 110.44, 110.45, 110.46, 110.47, 110.48, 110.49, 110.50, 110.51, 110.52, 110.53, 110.54, 110.55, 111.18, 111.25, 111.26, 111.27.

50. Malta takes note of recommendations: 111.22, 111.23, 111.24, 111.28.

Corruption and money laundering

110.34, 110.35, 110.36, 110.37, 111.18

51. Over the past years, the Government has introduced reforms to target corruption, through *inter alia* the enhancement and further improvement of the quality, independence and efficiency of the national justice system, the safeguarding of whistleblowers, the removal of the prescriptive period over corruption offences committed by politicians, through the regulation of public appointments, the further regulation of judicial appointments and judicial accountability, as well as through the joining of the European Public Prosecutor's Office's (EPPO) establishment.

Freedom of speech and protection of journalists

110.45, 110.46, 110.47, 110.48, 110.49, 110.50, 110.51, 110.52, 110.53, 110.54, 111.25, 111.26

52. Malta increased its efforts to strengthen the independence of the media and reduce pressure and censorship imposed on it by enacting the Media and Defamation Act in 2018 and repealing the pre-existing media laws under the Press Act. This established a new legal framework for media law, libel, defamation and slander under Maltese law, following extensive consultation on the matter with the office of the OSCE Representative for Freedom of the Media.

53. The legislation strengthened the right to freedom of expression through the abolition of criminal libel from Maltese media law and criminal law, the introduction of the new civil tort of slander, and the regulation of web-based news and current affairs services.

54. In the case of actions brought for allegedly defamatory statements, a plaintiff must now bring proof of serious harm or a likelihood of serious harm.

55. The new law provides in detail for a number of defences which were only scantily referred to under the old law which were developed and transformed through the judgments of the European Court of Human Rights. Among these is the defence of honest opinion.

56. In an effort to eliminate the possibility of the institution of SLAPP lawsuits, anti-SLAPP provisions were introduced in so far as actions of civil libel are started in Malta against media practitioners in Malta. In fact, it does away with the filing of precautionary warrants against journalists and the filing of multiple lawsuits against a journalist on the same facts.

57. Malta would support any EU-wide initiative in order to curb SLAPP and libel tourism by the creation of common legislation.

111.27, 111.28

58. A transparent investigation was immediately conducted in collaboration with key international institutions, and led to the arraignment of three persons in Court within 49 days. This investigation is ongoing.

59. In its letter, the Attorney General mentioned a number of legal issues which ensue should a public inquiry be held in parallel to a criminal inquiry. The Prime Minister and the Justice Minister, in separate occasions, said that once the inquiry of the investigating Magistrate is finalised, the Government would not exclude the option of opening a public inquiry.

Special juvenile court

111.22

60. The Juvenile Court has competence to hear all cases involving minors aged 14 up to the age of 16, while 16 to 18-year olds are heard and prosecuted before the formal ordinary courts.
