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Universal periodic review

Report of the Working Group on the Universal Periodic Review*

Madagascar

Addendum

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

* The present document is being issued without formal editing.



1. Madagascar submitted its third report under the universal periodic review mechanism in November 2019.
2. Following the review, it received 203 recommendations, of which 163 were accepted immediately, 11 were not accepted, and 29 were partly accepted.
3. The Government of Madagascar held consultations with stakeholders in order to prepare the present addendum. Its replies reflect the views of the ministries responsible for implementing the recommendations.
4. The present document sets out the Government's position with regard to the recommendations contained in paragraph 122 of the report of the Human Rights Council working group. The Government would like its replies to be published as an annex to that report.
5. Madagascar **supports** the following recommendations: 7, 8, 11, 13, 15, 16, 18, 19, 21, 23 and 28.
6. Madagascar **does not support** recommendations 1 to 6, 9 and 10, on the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, the Protocol relating to the Status of Refugees of 1967, the statelessness conventions, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Government is currently studying the application and implementation of the international human rights instruments that the country has already ratified.
7. Madagascar **does not support** recommendation 12, on the enactment of comprehensive legislation that provides full and effective protection against discrimination in all forms, and which contains a comprehensive list of prohibited offences that constitute grounds of discrimination. The Constitution of Madagascar prohibits all forms of discrimination and, furthermore, the country is a party to the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.
8. Madagascar **does not support** recommendation 14, on the establishment of an independent mechanism to investigate reports of acts of torture and ill-treatment committed by the security forces, in particular during operations to combat cattle rustling. The necessary structures are already in place within the defence and security forces. Cases involving acts of torture committed by staff of the National Gendarmerie fall within the competence of the special crimes department of the Criminal Police Directorate and its subdivisions, which include criminal investigation units and investigative support teams. Gendarmes are trained to carry out their mission within the law and not to close ranks. In 2019, the National Gendarmerie issued 140 authorizations to prosecute, and 81 gendarmes of various ranks were placed in custody. Since the beginning of 2020, 15 authorizations to prosecute have been issued, and 8 gendarmes of various ranks have been placed in custody. The State Secretary under the Ministry of Defence responsible for the gendarmerie may order an investigation to be opened if a gendarme is suspected of having committed such acts.
9. Madagascar **does not support** recommendation 17 on the cessation of the harassment, arbitrary detention and intimidation of human rights defenders exercising their right to freedom of expression, including environmental activists. Madagascar has a non-negotiable policy against impunity. In addition, as Madagascar is a State governed by the rule of law, the commission within the country of any act that violates the law gives rise to prosecution. Regardless of the status an individual may have, offences committed outside his or her capacity as a human rights defender will be prosecuted. It is not a question of intimidation, but of observing the legal rules in force. However, it should be noted that a bill on the protection of human rights defenders is currently under consideration.
10. Madagascar **does not support** recommendation 20 on repealing the offence of insulting public officials. Insults, which are considered to be attacks on an individual's honour, are categorically not accepted in Malagasy society. The repeal of such an offence cannot be envisaged at present.

11. Madagascar **does not support** recommendation 22 on measures to release all persons detained exclusively for exercising their rights to expression, opinion, association and assembly. The courts have sole competence over the release of detainees, and the independence of the judiciary is guaranteed by the State and enshrined in the Constitution.

12. Madagascar **does not support** recommendations 24 and 25 on the decriminalization of the offences of defamation and insult. Defamation and insult are acts that are not tolerated in Malagasy society and culture. Such acts, committed against an individual, are considered malicious and could have social consequences that would be difficult to control.

13. Madagascar **does not support** recommendations 26 and 29 on combating early marriage and decriminalizing abortion. With regard to early marriage, efforts to promote and protect the rights of girls and women have already been undertaken. Madagascar has also ratified international conventions addressing the issue. Legalizing the practice of abortion, on the other hand, would go against public order and the moral standards and beliefs of the Malagasy people, who regard abortion as a violation of the right to life, a right enshrined in article 8 of the Constitution of the Republic. In addition, the risk of misuse cannot be ruled out. Consultations on the legalization of therapeutic abortion are currently under way.

14. Madagascar **does not support** recommendation 27 on the access of women and girls to sexual and reproductive health information, services and commodities, including contraception, as well as comprehensive sexuality education both in and out of school. At this time, the Government is not yet in a position to make such far-reaching commitments, as access for children to sexual health commodities is still inappropriate in terms of Malagasy culture and mores. However, measures regarding access to sexual health information in and out of school are already in development.
