



REPUBLIC OF MALTA

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United Nations Office and other International
Organisations in Geneva**

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Adoption of the Outcome of the UPR of Malta

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Mr. President,

Malta reaffirms its commitment to the Universal Declaration of Human Rights and other landmark documents so that together with the international community, we can help advance human rights for all.

In Malta, provisions for specific rights, together with protective provisions that guarantee their enjoyment, have been progressively implemented in our constitutional development. Respect for the fundamental rights and

freedoms of the individual are enshrined in the first article of our Constitution, placing them at the very core of Maltese society.

Malta plans to setup a national human rights institution in conformity with the Paris Principles.

Mr. President,

The UPR is a unique UN mechanism. Since its inception, its positive impact has been far-reaching. Through it, the global community examines and addresses the human rights performance of all UN member states, periodically and without distinction. It is state-driven, yet implores on Member State to declare what actions they have taken to promote and protect human rights and how they sought to deliver on their human rights obligations in an objective, constructive, transparent, non-selective, non-politicized manner. The UPR is about dialogue and the sharing of best practices among States and stakeholders. It is about the full cooperation and engagement with the Human Rights Council, the UN Human Rights Treaty bodies and the UN High Commissioner for Human Rights.

It is for these reasons and more that the Government of the Republic of Malta attaches great importance to the Universal Periodic Review.

Mr. President,

One of the highlights of the UPR has been its success in heightening the attention of States and governments to undergo a process of internal review through an extensive inter-ministerial consultation. In Malta's case, this has been an extremely useful and forward looking exercise. It helped create expert teams committed to collaborate further within and beyond the mandated scope of the UPR.

One augurs that the momentum generated thus far is maintained, thus ensuring continuity in regular monitoring of objectives and commitments.

Equally important, is the continued dialogue between the Government of Malta and civil society, both at the national and international level. The invaluable contribution of civil society is indeed welcome, ascertaining a degree of ownership and inclusiveness by civil society in the overall undertaking.

Mr. President,

Since Malta's first review in 2009, significant progress has been registered following on the recommendations made. This attests to the Government's ongoing endeavour to further improve the human rights situation at the national level, while seeking also to fulfil its human rights obligations at the international level.

In examining the 134 recommendations made during the second cycle, the Government of Malta has undergone an even more intense exercise, keen to further improve upon its past achievements. This is reflected both in its report and in the written replies submitted these recommendations.

Mr. President,

It is pertinent to note that some of the recommendations submitted last October were, in fact, already being implemented or developed into Maltese policy.

Furthermore, it was noted that a number of recommendations were similar in nature. In order to address this, replies dealing with the same subject matter, have been grouped, accordingly. Other recommendations were rather ambiguous or considered

too general. In instances where countries made recommendations linking two issues on which Malta had different positions, the replies provided addressed each subject, specifically.

While recommendations that were 'accepted' enjoyed the support of the Government of Malta, recommendations 'accepted in part' referred to those where Malta supported the principle and idea behind the recommendation, but was not, as yet, in a position to fulfil it.

The Government of Malta did not consider all the recommendations as being on the same level. Some recommendations could not be fully accepted as they were still subject to internal considerations. Hence, it was felt that by accepting a recommendation on that same policy area, this could prejudice internal considerations. Other recommendations were rejected either because Government has no intention to change its present policy or because it deems that such recommendations have been already addressed in its legislation and policies.

The Government of Malta sought to address all the recommendations in its report as best it could, within the constraints of the stipulated word count.

With respect to certain specific recommendations, Malta had already addressed some of these during its UPR on 30 October 2013. Nonetheless, the Government of Malta is prepared to further address them as follows:

Mr. President,

Re: International instruments and Human Rights Protection

Malta is party to various international covenants and has signed numerous conventions that bolster its position in protecting and promoting human rights. Over the years, the Government of Malta has taken various legislative initiatives aimed at further safeguarding the implementation of particular human rights. Malta will continue its accession process to the core human rights treaties by instituting new legislation addressing various human rights aspects. At present, however, Malta is not in a position to accede to all treaties and conventions. One such case is the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. An explanation in this regard was included in the Report submitted on the recommendations made.

In addition, a number of specialised National Commissions, Commissioners and Authorities have been set up with specific mandates to protect vulnerable groups and guarantee the protection of their rights. These include the National Commission for the Promotion of Equality; the National Commission Persons with Disability; the Commissioner for Children; the National Employment Authority and the Commissioner for Voluntary Organisations.

Furthermore, Malta remains committed to strengthen the rule of law and good governance in order to safeguard, protect and promote human rights and freedoms.

Mr. President

Re: Equality and gender Balance

I wish to report that a 'Bill on Civil Unions' is currently being discussed in Parliament with the aim of regulating civil unions between two persons of the same or of different sex. This Bill proposes that a civil union, once registered, shall have the corresponding effects and consequences in law of civil marriage.

A consequence of this Bill is the strengthening of Malta's laws on discrimination. Persons who use any threatening, abusive or insulting words or behaviour, or else display any written or printed material which is threatening, abusive or insulting with the intent of stirring up violence or hatred on these grounds became liable to imprisonment upon conviction. This amendment will ensure that no law entails any provision that is discriminatory, nor may any person acting by virtue of any written law cause a person to experience discriminatory treatment on the ground of sexual orientation.

While the Government of Malta remains committed to sustain the traditional family model, as the fundamental unit of society, it has embarked upon legislation that does not discriminate against any form of other family model.

Malta further safeguards the rights of transgender persons. In fact, amendments to the Civil Code removed the legal obstacles for persons who have undergone a legally recognised change in sex to be considered as pertaining to the acquired sex for all intents and purposes of civil status, including marriage.

Following the extension of the remit of the National Commission for the Promotion of Equality (NCPE) the

Commission has been working to develop a culture of rights through capacity building by organising internal organisational training on the grounds of equality and discrimination, including race and ethnic origin; as well as on assisting clients; planning and performing training needs analysis; diversity management audit and evaluation tools; and communicating equality to various stakeholders.

Moreover, through a transnational cooperation with other equality bodies, research will be carried out to outline various formal and informal working processes that are utilised in these equality bodies in order to implement the respective obligations on equal treatment.

NCPE is working on various initiatives with the aim of increasing the number of women in decision-making positions; empowering and enabling women to take up decision-making positions; and at supporting and advising policy makers on gender-balance in decision-making, namely:

- A mentoring programme for women
- The compilation of the Directory of Maltese and Gozitan Professional Women;

Two research studies on gender-balanced representation in decision-making and on gender quotas and other measures.

The NCPE also provides training on racism and xenophobia on request to various groups of stakeholders to disseminate further information on the rights and responsibilities related to racial equality. Training sessions are tailored according to the needs of the respective group including migrants, varying in time, structure and media used. Moreover NCPE has carried out research to develop a national action plan against racism and xenophobia, on which it is working on an ongoing basis in order to strengthen its efforts in this field.

Mr. President,

Re: Persons with Disabilities

Malta has always taken a very strong commitment towards ensuring that all socially or culturally constructed barriers are overcome, and strong legislation is made available, to ensure the protection and consolidation of human rights for persons with disabilities. The Government is committed to providing a variety of alternatives so that persons with disabilities can receive a service of their choice, tailor-made and developed

around the needs, aspirations and requirements of the respective individuals. When it comes to education, independent living, accessibility to multimedia, the State has either its own structures to provide the necessary support or else engages closely with the voluntary sector to ensure that such services are provided as necessary.

Mr. President,

Re : Asylum seekers

The Government of Malta appreciates the fact that delegations have recognised the disproportionate pressures Malta is facing because of the influx of irregular migrants, which is exacerbated by Malta's size, population density and geographic location. Notwithstanding these challenges, Malta remains committed to do its utmost to keep honouring its international obligations and ensure that their human rights and dignity are protected.

The Government of Malta considers that its detention centres already meet international standards and efforts are undertaken to ensure upkeep and, where necessary, improvement of conditions.

It is to be noted that Malta pursues policy reform at the European level. Hence, it is to be recalled that the challenges of migration cannot be addressed by Malta acting alone, but in cooperation with neighbouring countries and the European Union.

Irregular migrants have the possibility to challenge their detention, as well as the right to file an asylum application. Such persons have also have access to health and other benefits.

In fact by July 2015 Malta plans to introduce reforms to its migration and detention policies as well as integration-oriented initiatives with a view to comply with the re-cast Reception Conditions Directive (Directive 2013/33/EU), which will be transposed into national legislation.

Measures to be taken include:

- Alternatives to detention will be referred to in the Reception of Asylum Seekers (Minimum Standards) Regulations in accordance with Article 8(4) of the Directive;

- Reasons why asylum applicants may be detained will also be introduced in the Reception of Asylum Seekers (Minimum Standards) Regulations, as per Article 8(3) of the Directive, these being:
 - in order to determine or verify an applicant's identity or nationality;
 - in order to determine those elements on which the application for international protection is based which cannot be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
 - in order to decide, in the context of a procedure, on the applicant's right to enter the territory;
 - when the applicant is detained subject to a return procedure under "Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals," in order to prepare the return and/or carry out the removal process, and the authorities concerned can substantiate, on the basis of objective criteria, including

that the applicant already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;

- when protection of national security or public order so requires;
- in accordance with Article 28 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.
- New legislative provisions in the Immigration Act (Cap. 217 of the Laws of Malta) and the Reception of Asylum Seekers (Minimum Standards) Regulations introducing the possibility to challenge detention as per Article 9(3) of the Directive will be introduced.

It is also important to mention that Warehouse II at Safi Detention Centre has been totally refurbished. Further

refurbishment initiatives were also conducted in 2012 to Hermes Block at Lyster Detention Centre. Moreover, under the European Refugee Fund Emergency Funds 2012 a number of initiatives have been conducted to improve the reception facilities of the service users. For example a mobile X-ray facility was set up within Lyster by the Health Authorities. This initiative will reduce the time lag for health screening of arriving migrants and consequently the timeframe for relocating unaccompanied minors and other vulnerable groups will be further reduced and kept to minimal time necessary.

All tents were removed from the Hal Far Tent Village and replaced by 100 modern mobile homes through the European Refugee Fund Emergency Measures 2011. The success of this initiative was again repeated under European Refugee Fund Emergency Measures 2012 when a further 100 units were installed to upgrade another Open Centre at Hal-Far.

Mr. President,

Several initiatives were undertaken as a result of the National Action Plan on Combating Trafficking, including:

- the establishment of a Human Trafficking Monitoring Committee, at a high level, which amongst others include the Attorney General and the Commissioner of Police;
- an awareness campaign, particularly via a TV spot aired at prime time;
- training activities for stakeholders in the sector, including agencies involved in victim identification and support, which were delivered by the International Organization for Migration and other experts. These sessions addressed entities dealing with vulnerable persons, such as the Agency for the Welfare of Asylum Seekers, with a view to enhance victim identification; and the,
- Adoption of National Indicators for the Identification of Trafficking Victims.

Malta agrees with the principle that unaccompanied minors should not be detained. However, it notes that no amendments to its legislative framework are required to prevent the detention of such minors. In particular, Maltese criminal law does not feature provisions relating to the detention of unaccompanied minors.

Mr. President,

The present government's firm commitment to strengthen the human rights and equality framework was reflected in a number of decisions taken during the past months. Earlier this month, Malta announced that it will be the fourth EU member-state to ratify the Istanbul Convention on Violence against Women. This week, Malta announced that, by amending the Criminal Code, it will be prohibiting punishment in all forms, both in the home and in alternative care settings, thereby confirming that proper respect for human rights, in particular, for the rights of the child, requires that children should never undergo corporal punishment. To this end, this new legislation in Malta considers reference to 'bounds of reasonable chastisement' as no longer acceptable

Mr. President,

In response to recommendations relating to the right to life and sexual and reproductive health, I wish to point out that these have been amply and comprehensively addressed in Malta's National Report; in the Opening Statement and subsequent explanations delivered by the Hon. Minister Helena Dalli, Minister for Social Dialogue, Consumer Affairs

and Civil Liberties, who headed the Malta delegation for the UPR , as well as in the Malta's written replies submitted in response to the recommendations.

Mr. President,

In concluding, on behalf of the Government of Malta, I wish to extend a word of appreciation and gratitude to the invaluable and continuous support received from the OHCHR Secretariat throughout the whole process leading to Malta's UPR. I can personally attest to the thorough commitment and professionalism of all those who collaborated with my delegation throughout the past months. A word of thanks is also due to all those delegations and NGOs who sought to enlighten us further with their constructive recommendations, all of which received our utmost attention and careful consideration.

Thank You.