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Follow-up to the Universal Periodic Review

Towards a National Agenda for Human Rights

Follow-up to the Universal Periodic Review: Towards a National Agenda for Human Rights

Support to Universal Periodic Review (UPR) Follow-up

"The international community will assist in implementing the recommendations and conclusions regarding capacity-building and technical assistance, in consultation with, and with the consent of, the country concerned."
Art. 36 of HRC Resolution 5/1 on UPR

Introduction

UNDP's comparative advantage as a trusted government partner and its practical development experience in human rights in the field, suggests that UNDP Country Offices in Europe and the CIS (ECIS) region should play a significant role in providing assistance for the Universal Periodic Review (UPR). The report "Study of the Implementation Challenges and Lessons Learned from the Universal Periodic Review (UPR) Recommendations in the ECIS Region" (see Appendix 2) highlights a range of practices and entry points throughout the UPR cycle, along with related challenges. Good practices and challenges both represent programming opportunities for UNDP to develop national capacity in the UPR area.

This Policy Note identifies potential development programming opportunities at the na-

tional level both for the Regional Centre for Europe and Central Asia, in providing assistance to Country Offices (COs), and for what COs themselves can contribute to the in-country UPR process.

Democratic Governance, Human Rights and UNDP in the ECIS region

In pursuit of its global objective to fully integrate human rights into UNDP policies, programmes, and processes, UNDP focuses on three key areas:

- Building the capacity of the systems and institutions put in place by nations to promote and protect human rights;
- Promoting the use of a human rights-based approach in development programming;
- Engaging with the international human rights machinery, led by the United Nations, and forging partnerships with expert institutions.

In the ECIS region, this approach translates into a specific focus on human rights and justice under the regional democratic governance practice, and within this focus, an emphasis on the UPR. The UPR process presents UNDP with a range of opportunities for engagement with States, NHRIs and civil society.

In many countries in the ECIS region, the UPR merely represents a cyclical international obligation. However, the process itself has the potential to develop into a mechanism that can bring sustainable improvements to people's lives, particularly the disadvantaged and marginalised. It is therefore a key vehicle for conveying UNDP's experience in human rights policy advice, technical support, capacity development and knowledge management.

UNDP Regional UPR Support

UNDP's Regional Bureau for Europe and CIS (RBEC) has developed a 'rapid response' UPR-focused initiative [UPR Follow-up Facility – See Appendix 1 for details on the UPRF] for UPR capacity development in order to support UNDP COs in addressing UPR initiatives at the national, sub-national and local levels. A number of governments in the region have made modest progress in implementing their agreed UPR Recommendations and, as the development of the next national report approaches, they are likely to seek assistance and advice on presenting a credible report, which may involve implementing specific Recommendations as a matter of urgency. In this regard, the Regional Centre can provide national and international expertise from its rosters, on short notice, for the following activities:

• Building national UPR capacity, in partnership with international partners if required, particularly OHCHR. Predominantly, this would be regional or sub-regional training for government agencies and for civil society, for the development of their respective reports;
• Providing in-country training on implementing UPR Recommendations, particularly for civil society, including support for regional public hearings and expert discussions;

• Assisting UN governance and human rights thematic groups to analyse UPR Recommendations and exploring the participation of the UN agencies in their implementation;
• Providing support to governments for round table meetings to review draft action plans on UPR follow-up;
• Providing advice on using existing (sectoral or thematic) capacity development projects within UNDAF outcomes to follow-up on particular UPR Recommendations;
• Supporting governments to develop matrices of UPR Recommendations by thematic area for ease of implementation;
• Facilitating cooperation between implementation partners (e.g., government/parliament) to develop joint implementation plans for particular Recommendations;
• Developing the capacity of NHRIs to engage strategically with governments and civil society to advance the implementation of UPR Recommendations – particularly given the enhanced role for NHRIs in the second cycle;
• Facilitating study visits to Geneva, especially for NGOs, to observe the UPR process before preparing their own stakeholder report(s);

Care needs to be taken not to undermine the interdependence of the UPR and other development programmes, nor to over-emphasise UPR Recommendations at the expense of the comments and recommendations of UN Treaty Bodies (TB) and UN Special Procedures (SP). In theory, these Recommendations should be considered throughout the UPR cycle. However, this may be unrealistic as many ECIS States are behind in both reporting to Treaty Bodies and in implementing Treaty Body and Special Procedures outputs. These States may prefer to focus on UPR Recommendation implementation only, given the tight and strictly enforced time limits.

In general, UPR-related programmes and broader capacity development should be for-

mulated using the same set of principles with programmatic linkages between UPR-related outputs and other development programmes.

Potential Entry Points in the UPR Cycle

Stakeholder Reports – NGOs

NGOs and NHRIs have an explicit UPR role and their reports are the first to be submitted to the Human Rights Council (HRC), some 6-8 months before the UPR takes place. The deadline for stakeholder reports is about 8-10 months in advance of the UPR.[1] However, States are encouraged to prepare their national report after a "broad consultation process at the national level with all relevant stakeholders" which, realistically, should commence up to a year in advance of the submission of the national report. Thus, whilst NGOs are preparing their reports, they may also be involved in these State consultations, which provides them with an opportunity to highlight issues to be discussed.

Assistance: The modalities for stakeholder reports are strictly enforced and a range of good practices for their development are available. Development assistance should focus on providing training in the technical requirements and good practices required for developing a stakeholder report, and on providing resources to enable NGOs to gather and develop their reports.

Stakeholder Reports – NHRIs

National Human Rights Institutions (NHRIs) (including some Offices of the Ombudsman) are an integral part of the UPR process. In many regions, NHRIs actively participate in preparing detailed stakeholder reports and cooperate with civil society to ensure the submission of a wide range of stakeholder reports. Although several "A"[2] status institutions from the ECIS region presented stakeholder reports in the first UPR cycle, many did not. In the second cycle, the role of NHRIs has been enhanced: in the HRC plenary session "A" status NHRIs are now given the floor after the State under review, during the adoption of the review report, and have also been allocated a dedicated section within the summary of other stakeholders' information.

Assistance: Where capacity development projects relating to NHRIs exist, project resources can be used to contract national or international consultants with UPR experience from the Regional Centre's rosters. Regional or sub-regional training (possibly in conjunction with similar training for civil society) is available from the Regional Centre on request.

National Reports

Assistance: All UN Member States participated in the first UPR cycle, but in some countries the UPR process will not have been institutionalised and regional and sub-regional training is available from the Regional Centre on request. In other regions, specific UPR projects have been developed to assist the State with the development of its national report and with the implementation of Recommendations. Assistance can also be provided to States from human rights thematic programmes to implement specific Recommendations in that area, thus ensuring interdependence between development programmes and UPR implementation.

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1   For details please visit OHCHR site at http://www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx

2   NHRIs accredited by the International Coordinating Committee of National Institutions(ICC) as compliant with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles)

UPR Follow-up Facility (UPRF)

Support to the implementation of human rights recommendations (SIHR) emanated from Universal Periodic Review (UPR), Treaty Bodies (TB), and Special Procedures (SP) mechanisms. These are 'a unique contribution to national development agenda through UN Resident Coordination System (UNRCS)'.

In line with UNDP's Strategic Plan, such support is for the strengthening of National Human Rights System (NHRS), engagements of governments, national human rights institutions, and civil society organisations with international human rights mechanisms (UPR, TB, SP), and principles (Human Rights Based Approach etc.)

The UPR is a relatively new United Nations mechanism that began in April 2008, by which the Human Rights Council (HRC) would review human rights practices of all Member States once every four years. During the review, States receive recommendations from their peers. Since the "improvement of the human rights situation on the ground" is the primary focus of the exercise, the follow-up of UPR Recommendations is the most critical and important phase of the whole UPR process.

The success of the implementation phase will determine the efficiency and ultimate credibility of the mechanism and demonstrate States' engagement in the promotion and strengthening of human rights. The UPR process also provides a strategic opportunity to connect recommendations from Treaty Bodies and Special Procedures.

The second round of the review has commenced on **13 May 2012** with some changes to the review modality. The second and subsequent cycles will last 4.5 years and will focus on "inter alia, the implementation of the accepted Recommendations and the developments of the human rights situation in the State under Review." The duration of the re-

view in the HRC has been extended and States are now encouraged to provide the Council, on a voluntary basis, with a midterm update on follow-up to accepted Recommendations.
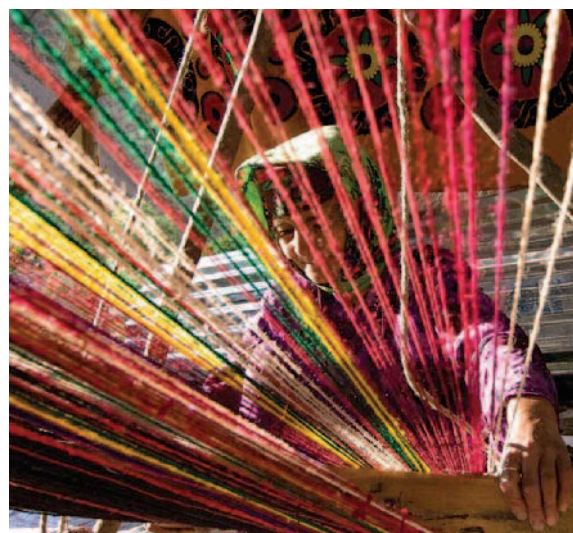
UNDP's Response: The UPR Follow-up Facility (UPRF)

The outcome of the UPR provides the UNDP and entire UN system with an advocacy tool to integrate human rights in development dis-

course in a holistic and comprehensive manner, an entry point for dialogue with governments, and a renewed basis and framework to develop sectoral, cross-sectoral, and wherever possible, joint programming to support the development and strengthening of national human rights systems. This could be aligned with CCA, UNDAF, and CPAP programming cycle.

UPR Follow-up would essentially be a nationally owned and driven approach backed by a line of action outlined with lessons learned and good practices both from the region and outside. The **UPRF**, a regional product/support mechanism for UNDP country offices designed by the UNDP Bratislava Regional Centre, will enable them to position strategically vis-a-vis capacity and knowledge requirements for their national partners.

Menu of Services:

- Clustering and Alignment of the UPR Recommendations with national development priorities;
- Mapping of UNDP Portfolio, and establishing programming linkages with the accepted UPR Recommendations;
- Formation of a local UNDP UPR Team capable of providing inputs and guidance (in sync with UNCT/UNRCS work);
- Development of a package of services (i.e., technical capacity development projects, cross-practice initiatives, advocacy, communication strategy etc.) based on actual needs/demands;
- Establishing sectoral linkages with UPR and other national recommendations (disability, minority, women, vulnerable groups, social protection etc.);
- Advocacy and support (i.e., good practices/lessons learned etc.) for Voluntary

Mid-term Report to the Human Rights Council;
- Advocacy and technical support (i.e., good practices/lessons learned) for UPR Reporting (Second Cycle: 2012-16);
- Support nationally owned Monitoring of Progress of Implementation;
- Integration of UPR Recommendations into CCA, UNDAF, CPAP etc., UN planning process;
- Non-agreed recommendations can also be a basis for long-term advocacy for change at the country level.
- Seed funding for innovative and/or catalytic initiative to implement UPR recommendations.

In addition to staff time, UNDP BRC's vetted roster and some of the seasoned UNDP CO staff and human rights advisers/specialists will be part of the broader regional team to support implementing some of the deliverables of the **UPRF** based on actual demands and specific circumstances.

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Regional Study 2012

Implementation Challenges and Lessons Learned from the Universal Periodic Review (UPR) Recommendations in the ECIS Region

UPR Follow-up Facility (UPRF)

UNDP Regional Centre for Europe and the CIS

1. Introduction

The Universal Periodic Review (UPR) is a unique mechanism that the United Nations began using in April 2008, which consists of the review of the human rights practices of all UN Members States once every four years. Since the primary focus of the exercise is the "improvement of the human rights situation on the ground", the follow-up of the UPR Recommendations is the most critical and important phase of the whole UPR process. The success of this phase ascertains the efficiency and credibility of the mechanism and demonstrates to what level States are engaged in the promotion and strengthening of human rights.

The second round of the review commenced on 13 May 2012 and includes some modifications to the review modality. The duration of the Review in the HRC has now been extended and States are encouraged to provide the Council, on a voluntary basis, with a midterm update on the implementation of accepted Recommendations. The second and subsequent cycles now last four and a half years and will focus on "*inter alia*, the implementation of the accepted Recommendations

and the developments of the human rights situation in the State under Review".

This Regional Study Report comprises a rapid assessment of the needs and capacity gaps of national authorities in Europe and the CIS to implement the accepted UPR Recommendations. Since the second cycle is still in progress, it is too early to determine with any certainty how effective the process will be in improving human rights on the ground. This will be apparent only after the second national report has been prepared and human rights NGOs, NHRIs and other stakeholders have had the opportunity to undertake a detailed assessment of progress. The aim of this study is to identify effective UPR follow-up strategies in the region and to develop programming opportunities (i.e. inter-agency, thematic, cross-practice, etc.) at the national level. The Report has been prepared based on the good practices, implementation challenges and achievements/lessons learned from the UPR Recommendations undertaken in the ECIS region, with an emphasis on the practical, to produce a working resource for those interested in assisting the in-country UPR practice.

2. Methodology

The methodology for the Regional Study comprised a desk review of all available in-

formation, including national reports produced by UN Country Teams (UNCTs), NHRIs, CSOs, independent and project evaluations and project-based reports, along with relevant websites. UNDP Country Offices in the ECIS region were also requested to conduct a survey to identify any steps taken by authorities, NHRIs or the civil society, to begin the process of implementing the accepted Recommendations. This particularly applied to those States that had completed the UPR process by the end of 2010 and which therefore should have made some progress with implementation. Although given the opportunity to contribute, only one of the four States in the region reviewed in 2011 elected to complete the survey, presumably because the relevant follow-up/implementation was still in its early stages).

Country Offices from 14 States responded to the survey. Data collected from the region was reinforced by a desk review of global UPR practices – noting the follow-up and implementation activities undertaken in approximately 25 States, in particular Bahrain, Kenya, New Zealand and the United Kingdom. The aim of this broader exercise was to enable UNDP ECIS Country Offices to benefit from the best practices, challenges and lessons learned from countries outside the region.

3. Follow-up/Implementation Practice in the ECIS Region

It was apparent from the desk review and survey that, in approximately two-thirds of the ECIS States responding, no specific action to implement accepted Recommendations had yet been undertaken. In one or two States, this

was fully three years after the State's UPR. In other States (e.g., Bosnia and Herzegovina and Croatia) such action was pending, while in those States where some action had been taken, this related to progress on specific Recommendations rather than on an overall follow-up plan (e.g., Montenegro and FYR Macedonia).

In a few States (e.g., Armenia and Belarus) some form of action plan was in place, either through the development of a UPR Action Plan or of a National Human Rights Action Plan (NHRAP). However, in those States with previously developed NHRAPs, like Kazakhstan, no amendments had been made to reflect the UPR Recommendations.

The survey also examined activities undertaken by National Human Rights Institutions (NHRIs) and civil society in relation to UPR activities. Very few NHRIs in the region appear to have taken a formal interest in participating in UPR Recommendation implementation, although civil society is more active, at least in those countries where civil society is developed or independent of the authorities.

4. UPR Implementation Challenges in the ECIS Region

The Regional Study identified two areas that could jeopardise the effectiveness of the UPR process.

4.1 Lack of Political Will/Commitment to the Democratic Process

Despite the generally positive light in which the international community has embraced

the UPR process, and the demonstrable progress on some accepted Recommendations in most ECIS States, the actual implementation of these Recommendations in some countries in the region has been limited by a lack of follow-through, sometimes because of major political developments that have overshadowed the UPR.[3] In other States the culture of transparency and respect for independent voices (such as NGOs, CSOs and NHRIs) has yet to develop. In several countries no civil society engagement process exists; indeed in some the independent human rights CSOs themselves do not exist. There is also evidence that one or two States made commitments during the UPR that they no longer intend to keep.

4.2 Ineffectual Policy Implementation

In some States in the region democratic principles have yet to become imbedded in the legal and administrative processes. This limits the ability of these States to effectively implement the UPR Recommendations, which can result in UPR Action Plans that are not comprehensive. Additionally, apart from the Ministries of Foreign Affairs in these States, the State bodies involved often do not understand the UPR process, nor do they have the capacity to implement or report back on the UPR Recommendations.

Not all States appreciate the advantages of establishing a coordination body to work on UPR implementation. Indeed, in one or two States no administrative agreements exist to stipulate which State agency should be responsible for coordinating reporting on human rights in general and the UPR in particular.[4]

This problem also exists outside the region; in Timor-Leste the implementation of UPR Recommendations was delayed nearly a year while the responsible ministry was identified. These States typically lack a culture of effective cooperation with civil society, parliament, the media and with the UNCT.

5. Good Practice

5.1 Inter-agency Working Group / Steering Committee

Most UPR Recommendations require a coordinated approach by the State. This is often because the implementation of any one Recommendation is likely to require cooperation among two or more State agencies. For example, passing legislation may require actions to be taken by one or more ministries/departments and the cabinet/president's office, as well as parliament. For this reason, and also because States will want to ensure regular progress occurs with all accepted Recommendations, some governments have established an Inter-agency Working Group, sometimes called a Steering Committee. For example, the Armenian Government established an Inter-agency Working Group for the implementation of UPR Recommendations in February 2011 - the year following its UPR. With support from OHCHR and UNDP, this Working Group developed a comprehensive matrix to capture the country's progress in the implementation of its UPR Recommendations. Similarly, in Bahrain (the first State to undergo the UPR) a Steering Committee was established to oversee UPR follow-up. While generally considered a worthwhile strategy, some

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3   For example, as occurred with the elections in Kyrgyzstan and the political crisis in Ukraine.
4   The Ministry of Justice (which is usually the internal agency with most interest in human rights) or the Ministry of Foreign Affairs (which is usually the *de jure* body responsible for external relations, engagement with the UN system, etc.).

members complained that the Chair of the Bahrain Steering Committee did not allow sufficient member diversity and participation. Also, since there are limited opportunities for NGOs to raise specific human rights issues with the authorities in Bahrain, these issues were raised in the Working Group. To counter this, a procedure was created to provide a separate channel for these complaints, allowing the Steering Committee to focus on the issues within its mandate.

As a minimum, these working groups or steering committees typically include the full range of ministries, departments and other official agencies that have a role in the implementation of UPR Recommendations.

5.1.1 NHRI Involvement
National Human Rights Institutions (NHRIs) are an integral part of the UPR process (in the ECIS region, this includes some Offices of the Ombudsman). HRC Resolution 5/1 of 18 June 2007, which established the UPR, stipulates the active engagement of NHRIs in the UPR mechanism.[5] NHRIs have taken up this invitation with enthusiasm and most "A"[6] status institutions contributed in some way during the first UPR cycle by preparing their mandated stakeholder reports.[7]

In the second cycle, the role of NHRIs has been enhanced; in the HRC plenary session "A" status NHRIs are now given the floor after the State under Review, during the adoption of the review report, and have been allocated a dedicated section within the summary of other stakeholders' information.

Given the relevance of NHRIs in the UPR process, it follows that an invitation should be issued to the State's NHRI, if one exists, to attend working group meetings. However, NRHIs do not consider it their responsibility to implement a State's human rights obligations, nor UPR Recommendations. Rather, they consider their role to be to monitor such implementation, provide advice where necessary, prepare independent reports for national and international audiences and to engage independently in national, regional and international human rights mechanisms. Therefore they themselves decide on their level of participation in the process. Some NHRIs participate as observers only, whereas others are prepared to accept full membership of the group. In both cases, the NHRI will reserve its right to report independently on the UPR process in whatever manner it chooses.

For example, in the ECIS region a representative of the Armenian Office of the Human Rights Defender participated in a UPR working group retreat, in an observer capacity, and provided substantive inputs. In FYR Macedonia there are two NHRIs: the Ombudsman established in 1998 and an Anti-Discrimination Commission functioning since 2011. The Ombudsman has not been directly engaged with the UPR, but recently joined the Government-led midterm assessment together with the new Anti-Discrimination Commission.

5.1.2 Involvement of CSOs and specialised NGOs
Although the UPR is an exercise involving peer review by States, there are a number of entry

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5   The UPR shall "ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions, in accordance with General Assembly Resolution 60/251 of 15 March 2006 and Economic and Social Council Resolution 1996/31 of 25 July 1996, as well as any decisions that the Council may take in this regard".

6   NHRIs accredited by the International Coordinating Committee of National Institutions (ICC) as compliant with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles)

7   Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia and Ukraine

points for CSOs and specialised NGOs in the review process: they are entitled to participate in the national consultations required of the State under Review; as stakeholders in the process they can send submissions to the OHCHR before the Review; they can lobby members of the Working Group in Geneva; and they are permitted to take the floor during the Plenary before the adoption of the outcome.

A significant number of States (including from the ECIS region) accepted Recommendations that civil society (continue to) be involved in the UPR process, at least via consultation. For example, Mexico recommended that Azerbaijan establish an inter-institutional mechanism, in which relevant civil society actors would participate in order to implement both the UPR Recommendations and the Human Rights Council's Special Procedures and Treaty Bodies recommendations; Austria recommended that Croatia continue consultations with civil society in the follow-up to the UPR; and Norway recommended that Croatia adopt a transparent and inclusive process with civil society in the implementation of UPR Recommendations.

To ensure the continuation of civil society consultation during the follow-up period, Human Rights Council Resolution (A/HRC/RES/16/21) states that:

"17. While the outcome of the review, as a co-operative mechanism, should be implemented primarily by the State concerned, States are encouraged to conduct broad consultations with all relevant stakeholders in this regard."

Since the role of NGOs is clearly sanctioned in the UPR process, they have a legitimate role in monitoring the implementation of Recommendations by the State under Review. Currently, where working groups/steering committees in the region have been established, most are comprised of officials only. However, some do have representation from a number of human rights NGOs.

- In Armenia, representatives of a number of leading NGOs participate in the working group meetings with an observer status.
- In Croatia, a commitment has been made to actively involve NGOs in the implementation of the UPR Recommendations and, to this end, Croatia is in the process of establishing an adequate and participatory mechanism for the follow-up of the results of the UPR;
- In Kyrgyzstan, a series of round table meetings with NGOs have been held to review the Government's action plan on UPR follow-up.

Where NGOs are involved, it is important that the NGOs themselves decide who should represent the NGO community in the working group. Often States tend to issue invitations to particular NGOs to participate in the committee, but doing so can lead to controversy in the NGO community and the accusation that only the involvement of NGOs that support the government is permitted. A better approach is to allocate a set number of places for NGOs and to invite the NGOs to nominate their representatives. Officials sometimes resist this approach, arguing that NGOs will not be able to agree on attendance. However, NGOs are usually strategic enough to take the opportunity to be involved and to set accountability measures for those that represent them.

In States where NGOs have difficulty getting access to government agencies, officials may be concerned that NGO inclusion on a government working group can result in their raising individual complaints, which can be disruptive. However, strategies can be developed to deal with such situations. In relation to CSOs and specialised NGO involvement, good practices include:

- NGOs should be full members of the Steering Committee, with speaking rights, not just as observers;
- Channels should be established for routing non-UPR related issues raised by NGOs at the Steering Committee to the relevant Ministries, through an existing complaints/consultation mechanism within the Ministry or through an ad hoc initiative dealing with the particular issue. This enables the Steering Committee to retain its focus on implementing UPR Recommendations;
- Some human rights NGOs lack administrative or management capacity, which may limit their effective participation. Opportunities to develop these capacities should be provided to these NGOs by the international community, along with advocacy skills or more focused training on particular human rights sectors or issues.
- NGOs should be encouraged/assisted to develop a human rights network (if none exists) and an umbrella organisation to co-ordinate activities (particularly advocacy), to ensure more effective responses to State initiatives and for accountability within the network. The capacity development of the network could also be a focus for the international community;
- The wider NGO network should be included in any communications strategy adopted by the working group.

5.1.3 Involvement of Civil Society generally

While HRC Resolution 5/1 stipulates that it is primarily the responsibility of States to implement their UPR outcomes (including conclusions and Recommendations, and voluntary pledges and commitments), it also states that other relevant stakeholders, including civil society actors, have a role to play in the implementation. Other civil society actors may also be included in working groups or steering committees, including academics, trade unions, research bodies, etc. While States may

not consider it appropriate to include media representatives on working groups, it is important for working groups to develop a communications strategy. The National Report is expected to be prepared through a process of broad national consultation (in which the media has an obvious role) and the outcome of the Review should also receive wide publicity. Key stakeholders and the general public will therefore have a legitimate expectation to receive progress reports and other information about UPR implementation.

To ensure effective media involvement, a communications mechanism for the working group must be established. For example, the Bahrain Steering Committee has a communications strategy that includes the following elements:

- Creating focal points for UPR in public institutions and civil society organisations concerned with human rights, as well as in the media;
- Strengthening the Bahrain UPR website and developing interactive activities – blogs, Facebook, Twitter, online polls;
- Holding workshops, conferences and seminars on topics relevant to the UPR process;
- Communicating and cooperating with international organisations concerned with human rights;
- Demonstrating transparency by providing regular media releases about UPR progress and development;
- Adopting a pro-active approach to communications – emphasising one-on-one contact, forward planning and providing regular media briefings and events.

5.1.4 Involvement of UN Agencies in Working Groups

While it would not usually be appropriate for international representation on a committee tasked with national implementation, the UNDP Project Manager of a project supporting the implementation of Bahrain's UPR Ac-

tion Plan sits on the Bahrain Steering Committee. His participation facilitates dialogue and enables the project to offer effective assistance where necessary.

Some countries in the ECIS region have close cooperation between the State and UN Agencies in relation to UPR implementation. For example, the Ministry of Foreign Affairs in Belarus requested the UNCT to submit a document indicating where UNDP, IOM, UNICEF, UNHCR, UNFPA, UNAIDS could assist, or were already assisting, in the implementation of most of the 49 Recommendations accepted by Belarus.

Equally, in Serbia the UNCT Human Rights Adviser developed an assessment of the implementation of each of the Recommendations accepted by Serbia, which is being used to formulate UNCT strategies to advance the implementation of UPR Recommendations. The Ministry of Human and Minority Rights is undertaking a similar exercise with relevant Ministries and State institutions.

Nonetheless, it makes sense to identify what technical assistance could be contributed by international agencies and/or other States when establishing the UPR implementation process.

6. Action Plans

A variety of approaches have been taken in the ECIS region in planning UPR implementation, ranging from the development of National Human Rights Action Plans to UPR specific action plans to addressing Recommendations by theme or by individual Recommendation.

6.1 National Human Rights Action Plans

NHRAPs became popular following the World Conference on Human Rights in 1993. The Vi-

enna Declaration and Programme of Action recommended "that each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights". However, despite UNDP and OHCHR's joint "Human Rights Strengthening" (HURIST) programme having identified NHRAPs as the main avenue for supporting UNDP's policy on human rights, and OHCHR's publication of the *Handbook on National Human Rights Plans of Action* (2002), a decade later few countries had developed NHRAPs. Currently, approximately 30 NHRAPs exist globally.

Developing NHRAPs can be problematic. Some (for example in New Zealand) were developed by the NHRI, not by the State, and were then not adopted by the State, essentially becoming the NHRI's plan rather than a national one. Often, the process for developing the NHRAP does not address financial considerations, or how the NHRAP relates to national development plans, limiting the NHRAP's effectiveness.

However, in the context of the UPR and those States in the ECIS region with NHRAPs in place or under development, the importance of the NHRAP has become more recognised. These include Armenia (in development, 2012), Croatia (2011), Kazakhstan (2009 – 2012), Moldova (2004 – 2008), and Turkey. However, where a NHRAP already exists, incorporating accepted UPR Recommendations may be an issue, since the recommending State may not have considered the NHRAP when developing the Recommendation text, which may therefore differ from the NHRAP. Further, since OHCHR recommends that NHRAPs be developed after widespread consultation within the country, any amendments should also include public involvement.

BOX 6.1

Bahrain UPR Follow-Up Process

In order to ensure a transparent and participatory national process for implementing both UPR Recommendations and Bahrain's voluntary pledges and commitments, a UPR Steering Committee was established. It includes all the key stakeholders in the process from both the government sector and civil society and is chaired by the Minister of State for Foreign Affairs. This high level committee oversees the publication, dissemination and promotion of the UPR Report and has established a human rights information database within the UPR framework. It has developed the capacity of both officials and NGOs in cooperation with UNDP and other UN agencies and has produced an annual national report on human rights progress in Bahrain.

The positive features of the Bahrain process include the diversity of the Steering Committee and the involvement of human rights NGOs; the support provided by the UN system including the UNDP project; and the seminars/workshops contributed by OHCHR and others. Steering Committee meetings enable progress to be reviewed and various progress reports have been prepared and distributed. Recommendations are being implemented, including the establishment of the NHRI.

In 2010, the process was strengthened, in order to provide reporting on the implementation of all UPR Recommendations and voluntary commitments by the time the UPR National Report was due in 2012. This involved:

- clarifying the terms of reference of the Steering Committee to define the overall goal of a 2012 UPR National Report that would be well received both within Bahrain, and at the UNHRC Review;
- revising the Table of UPR Recommendations and Voluntary Commitments to articulate:
  - actions necessary to implement Recommendations and commitments;
  - authority responsible for implementation;
  - Steering Committee member(s) responsible for overseeing and reporting on implementation;
  - target dates for completion;
- a regular schedule of quarterly Steering Committee meetings with dates known in advance to ensure good attendance;
- inviting representation on the Steering Committee from the National Human Rights Authority, once its members were appointed;
- requesting the UPR Team to provide an updated report before each Steering Committee meeting;
- requesting Minister to Minister contact where progress was not considered adequate;
- distributing Meeting Minutes and UPR Team reports, via website and e-mail.

6.2 Thematic National Action Plans

Many States develop national action plans along particular themes rather than a comprehensive NHRAP. The World Programme for Human Rights Education (2005 – 2009) noted that a number of States (Croatia and Turkey, for example) had adopted national action plans/strategies for human rights education. Uzbekistan has national action plans to implement the recommendations of six Treaty Bodies, which may provide a vehicle for the implementation of certain UPR Recommendations.

6.3 UPR Action Plans

Developing a UPR Action Plan is the most commonly used planning approach for implementing UPR Recommendations and in the ECIS region these have been developed by Belarus, Croatia and Kazakhstan. A review of these implementation plans (see Bahrain example, Box 6.1) indicated a variety of processes with good practices based on a rights-based approach:

- A Steering Committee comprising all relevant State agencies, led by a minister or senior bureaucrat with NHRI and civil society representation;
- An Action Plan with clear objectives and step by step activities, clearly identifying the committee member responsible for each activity and providing target deadlines;
- Regular, minuted meetings;
- Transparency, via a communications plan and website.

6.4 Civil Society Involvement in Follow-up

HRC resolution 5/1 requires that the development of the national report in the second cycle will "involve a broad consultation process at the national level with all relevant stakeholders". Therefore, even if civil society is not represented on working groups or steering committees, a process for on-going consultation around implementation should be established. This type of civil society consultation is currently being used in Kazakhstan and Moldova.

Other procedures for including civil society have been used in Kyrgyzstan, where a series of round table meetings was held to review the Government's UPR Action Plan, and in FYR Macedonia, where the Government held a public meeting to present and discuss the UPR Recommendations. In Montenegro, the Government improved cooperation with the civil sector by founding the Office for Cooperation with the Civil Sector and the NGO, Civic Alliance, which has been closely monitoring and reporting on the human rights situation for the last five years. In Uzbekistan, however, there is limited cooperation between the State and civil society.

6.5 Parliamentary Involvement

Although the State under review is responsible for UPR implementation, the Executive is usually tasked with ensuring effective follow-up. However, legislatures also have a key role in UPR implementation in relation to Recommendations both on law change and, under some constitutions, ratification of international instruments. Where they exist, i.e., in Kenya, Moldova, and Kyrgyzstan, Parliamentary committees on human rights and/or gender can be the appropriate vehicles for cooperation.

7. Other Strategies

Not all States take a timely approach to the implementation process. Several States in the

BOX 7.1

The Kenya National Commission on Human Rights (KNCHR) and civil society had received "numerous plaudits" (according to a KNCHR Commissioner) for the reports they prepared for Kenya's UPR, their engagement with the Government and advocacy. However, it was their innovative approach to implementation that captured the essence of the UPR and has attracted most attention. When the Government's progress towards the follow-up phase appeared slow, (in a context where key government officials were engaged with a demanding new constitutional process) the KNCHR and human rights NGOs – working together under the umbrella Kenya Stakeholders Coalition for the UPR (KSC-UPR) – began to prepare their own *Outcomes Charter* that highlighted the key human rights priorities for the country.

The KSC-UPR then produced an Annual Progress Report covering the period 22nd September 2010 – 21st September 2011, which comprised a stakeholder assessment of the Government's performance in implementing the UPR Recommendations.

Doubtless concerned that its human rights priorities were being set by UPR stakeholders rather than the Government itself, the State began to develop an official implementation plan, with the assistance of OHCHR's Human Rights Adviser.

ECIS region had made very little progress with their accepted Recommendations by the commencement of the second UPR cycle. In some countries, innovative actions have been taken to encourage States to begin implementation (see Box 7.1).

8. Midterm Reports

As noted, Bahrain was the very first State to undergo the UPR process. A year later it provided the Human Rights Council with advice about its website followed by a summary report on follow-up to and implementation of the outcome of the UPR. In June 2010 it produced a progress report on *Implementing Recommendations, Voluntary Commitments and Pledges of the Universal Periodic Review.* Although interim or midterm reports are not a requirement of either GA or HRC resolutions, a number of other States have submitted such reports, including Argentina, Bolivia, Canada,

Ecuador, Finland, Morocco, the Netherlands and the United Kingdom. Thus far, three States from the ECIS region have provided either interim or midterm reports. Azerbaijan gave an oral update during a general debate at the HRC in June 2011 and presented an interim report in January 2012. Romania and Ukraine have also produced progress reports.

Poland submitted an interim report in March 2011, although it was somewhat vague towards Recommendations it had formally accepted earlier. For example, it had accepted a Recommendation to ratify the Convention on Enforced Disappearance (CED). However, after explaining that matters covered by the Convention were illegal under Polish law and that Poland had ratified other conventions covering enforced disappearance, it reported that it was "ready to consider ratifying the Convention if it were to contribute to the enhancement of international standards in this area".

The Netherlands midterm report addressed both accepted and unaccepted Recommendations.

Delegations from Mauritius, Mexico, Senegal, Jordan and Canada chose to present the progress made in implementing their UPR Recommendations during a side event to a HRC session.

In light of the above, midterm reports have now received endorsement by the Human Rights Council. In March 2011, Resolution 16/21 was adopted, which contained the new modalities for the functioning of the HRC, including providing the Council, "on a voluntary basis", with a midterm update on follow-up to accepted Recommendations.

No modalities have yet been established by the HRC for official midterm reports, which remain voluntary, and it will take time for a good practice to be established. However, based on the midterm reports already submitted, and the principles already established by the HRC for the UPR process, the following practices are likely to emerge:

- Developing the midterm report after consultation with civil society and the NHRI, in line with HRC resolution 5/1 on the involvement of stakeholders in the development of national reports;
- Ensuring that the report clearly indicates what has been implemented and what is yet to be implemented with a description of the follow-up steps being taken;
- Addressing pledges and voluntary commitments as well as unaccepted Recommendations in the midterm review, as Finland, Netherlands and the United Kingdom have variously done, and recognising

that the States making these particular Recommendations will raise the issue in the second cycle. This practice also allows States to note those Recommendations that are being given further consideration, although not accepted during the Review.

As these practices develop, opportunities will inevitably arise for capacity development assistance in the region.

9. Conclusion

The UPR process established by the HRC has succeeded in engaging the attention of all 193 Member States and is generally accepted as working, albeit not completely efficiently. Its procedures have been widely accepted and no State has sought to challenge its modalities. While the dialogue generated by the UPR, peer-to-peer and with key stakeholders, has generally avoided collaboration among States to render it less effective, the debate has sometimes lacked precision and credibility, when it deviates from Treaty Body and Special Procedure analysis.

However, the UPR represents an effective opportunity to engage Member States in the human rights situation in their countries with more intensity and transparency than before. While it remains to be seen, once the second cycle has finished, just how widespread implementation has been, the whole process represents a major advance in State accountability for human rights commitments and presents opportunities for the international community to engage at the national level in capacity development and other technical assistance initiatives.