

EUROPEAN HUMAN RIGHTS ADVOCACY CENTRE

EHRAC

Bulletin

Regular Snip

WINTER 2008
ISSUE 10



In partnership with Memorial Human Rights Centre (MHRC), the Georgian Young Lawyers' Association (GYLA) and Article 42 of the Constitution

The Universal Periodic Review mechanism of the UN Human Rights Council – a hope for universal coverage and equal treatment of states?

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The UN General Assembly, in its resolution 60/251 mandated the Human Rights Council to undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each

state of its human rights obligations in a manner which ensures universality of coverage and equal treatment with respect to all states.¹ All member states of the Council are to be reviewed during their term of membership.

At its fifth session, the Council adopted, in resolution 5/1, detailed provisions

regarding the Universal Periodic Review (UPR) mechanism.² The bases for the review are the human rights instruments to which a state is party, voluntary pledges and commitments made by states, including those undertaken when presenting their candidatures for election to the

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Human Rights Council, as well as applicable international humanitarian law.³

The information for the UPR is based on three sources. Firstly, there is the state's 20-page report. Secondly, a compilation is prepared by the UN Office of the High Commissioner for Human Rights (OHCHR) of the information contained in the reports of the UN treaty bodies, special procedures and other relevant UN official documents (10 pages). Thirdly, a 10-page compilation is prepared by OHCHR, of credible and reliable information provided by other relevant stakeholders (NGOs, national human rights institutions, academic institutions and research institutes, regional organisations and civil society representatives).⁴

The review of this information is conducted by a Working Group, chaired by the President of the Council and composed of the 47 member states of the Council. Other relevant stakeholders may attend the review. A group of three rapporteurs (*troika*), selected by the drawing of lots among the members of the Council and from different Regional Groups, is formed to facilitate each review, including the preparation of the report of the Working Group. Interactive dialogue between the country under review and the Council takes place in the Working Group.⁵

The outcome of the UPR is a report consisting of a summary of the proceedings of the review process, conclusions and/or recommendations, and the voluntary commitments of the state concerned. The outcome is adopted by the plenary of the Council. Recommendations that enjoy the support of the state concerned are identified as such. Other recommendations, together with the state's comments, are noted.

The Council should then follow up the implementation of recommendations in consultation with the state concerned.⁶

UPR has several advantages and challenges. It is very interesting that this mechanism is aimed at ensuring universal coverage of the fulfilment by a state of all its legal obligations under international human rights and humanitarian laws, thus potentially giving a full picture of the human rights situation in a country. At the same time, the fact that the information from all sources about all human rights cannot exceed 40 pages may make such a report superficial. It is very positive that the report of the Working Group on the UPR is based on different sources, which include the state's position, the position of different UN bodies and of NGOs. This is aimed at ensuring the objectivity of the information. It is also a good opportunity for NGOs and human rights defenders to try to influence the position of the Human Rights Council, although it is not yet known how significant such an influence will prove to be.

One of the most important features of the UPR is that it is a non-selective mechanism, which examines every state under the same conditions. It is aimed at ensuring the equal treatment of states. At the same time, the Human Rights Council is an inter-governmental institution and the decisions are made by state representatives. This of course means a risk of political issues influencing debates on human rights and of political voting. The positive aspect of UPR is

an opportunity to share human rights practice between states. At the same time, states facing similar human rights problems may agree not to criticise one another. The examination is not carried out by an independent judge but it is an examination of equals by equals, including all positive and negative aspects. It is a 'democratic' examination which will represent the opinion of the majority of the international community

on human rights issues, but will it be a professional examination based on legal principles?

It is positive that UPR is a cooperative mechanism based on interactive dialogue which fully involves the country under review. It is a non-confrontational mechanism. It can encourage cooperation between states and different human rights bodies. At the same time, the UPR does not have a clear follow-up mechanism and the implementation of the recommendations of the Council will mainly depend on the goodwill of a state.

Two sessions of the Working Group have already been held and 32 states were reviewed. Russia is scheduled to be reviewed at the 4th session to be held between 2 and 13 February 2009. Georgia is scheduled for the 10th session in 2011.⁷

In order to facilitate OHCHR's work on the compilation of UN reports for the UPR the University of Bern has developed a special electronic database, the Universal Human Rights Index. This database contains all observations and recommendations of the treaty bodies and special procedures (starting from 2000) devised by bodies, countries, rights concerned and affected persons. The database could also be useful in the everyday work of human rights defenders and NGOs.⁸

1 General Assembly, A/RES/60/251, 15 March 2006, para. 5(e).

2 Human Rights Council, A/HRC/RES/5/1, 18 June 2007, para. 1-38.

3 *Ibid.*, para. 1-2.

4 *Ibid.*, para. 15.

5 *Ibid.*, para. 18-25.

6 *Ibid.*, para. 26-38.

7 Information about the UPR mechanism and different reports may be found at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx> and <http://www.upr-info.org/>.

8 The database is accessible at <http://www.universalhumanrightsindex.org>.