



# **AMNESTY INTERNATIONAL ASSESSMENT OF THE IMPLEMENTATION BY STATES OF PREVIOUS UPR RECOMMENDATIONS**

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## **INTRODUCTION**

In this document, Amnesty International provides an overview of the state of implementation of key recommendations made in the previous reviews, in 2011, of the following seven states: Greece, Hungary, Ireland, Papua New Guinea, Sudan, Swaziland and Thailand. In each of the country chapters, the specific recommendations being assessed are identified in the footnotes by document and paragraph reference, and by the states who made those recommendations. A simple word search across the document will immediately identify, for example, the recommendations originally made by Chile or by Spain.

While Amnesty International welcomes efforts by states to give effect to accepted recommendations, a large number of the recommendations assessed in this document remain unimplemented or only partially implemented. Amnesty International takes this opportunity to call on all states – states under review as well as reviewing states – to make every effort to give prompt and full effect to accepted recommendations and voluntary commitments. Reviewed and reviewing states should stay in bilateral contact throughout the reporting period to collaborate, share good practice, and offer assistance as relevant, to foster the full implementation of recommendations made in the UPR.

## **GREECE**

As recommended in its 2011 UPR, Greece ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol in May 2012.<sup>1</sup> After lengthy delays, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was ratified on 11 February 2014 and the Ombudsperson was designated as the National Preventative Mechanism, mandated to visit places of deprivation of liberty in order to prevent torture and other ill-treatment.<sup>2</sup> On 9

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Greece*, 11 July 2011, A/HRC/18/13, recommendation 83.1 (Algeria, Austria, Brazil, France, Ukraine).

<sup>2</sup> A/HRC/18/13, recommendation 84.4 (Cyprus).

July 2015, Greece also ratified the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>3</sup>

However, Greece has failed to implement many other recommendations made in the last review, including to establish an independent and effective police complaints mechanism,<sup>4</sup> to respect the principle of *non-refoulement*;<sup>5</sup> and to ensure that detention conditions for irregular migrants conform to EU standards.<sup>6</sup>

## HUNGARY

During its first UPR in 2011, Hungary accepted recommendations to improve the living conditions of asylum-seekers and to step up efforts to improve the treatment of asylum-seekers and refugees.<sup>7</sup>

Regrettably, Hungary rejected a recommendation to establish adequate mechanisms to identify potential asylum-seekers during border procedures.<sup>8</sup> The government argued that such a mechanism was already in place and that national law prohibits escorting a failed asylum-seeker “back at the border and [their] return... to a country which cannot be considered as a safe country of origin or a safe third country (in accordance with the principle of *non-refoulement*)”.<sup>9</sup> The government further stated that it “is constantly striving to ameliorate the living conditions of asylum seekers and refugees... [and that] the Ministry of Interior supports projects aimed at improving the living conditions of both persons granted international protection and asylum-seekers using the sources of the European Refugee Fund to complement national actions.”<sup>10</sup>

Amnesty International is concerned, however, that measures adopted by Hungary in August and September 2015 in response to the sharp increase of the numbers of refugees and migrants entering the country may lead to a breach of these commitments and its international obligations to protect the rights of refugees and migrants.

## IRELAND

Amnesty International welcomes the constitutional referendum in May 2015 and the subsequent adoption of legislation in October 2015 providing for marriage equality for same sex couples, as was recommended to Ireland in its 2011 review.<sup>11</sup>

However, Amnesty International is disappointed at the lack of progress in implementing several other recommendations. For instance, Ireland committed to ensuring that its mental health law complies with the UN Convention on the Rights of Persons with Disabilities.<sup>12</sup> Unfortunately, despite recommendations for reform by a government-

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<sup>3</sup> A/HRC/18/13, recommendation 83.8 (France), 84.8 (Slovakia) and 84.1 (Ukraine).

<sup>4</sup> A/HRC/18/13, recommendation 83.46 (United Kingdom).

<sup>5</sup> A/HRC/18/13, recommendation 83.72 (Canada).

<sup>6</sup> A/HRC/18/13, recommendation 83.69 (Canada).

<sup>7</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Hungary*, A/HRC/18/17, 11 July 2011, recommendation 94.112 (Islamic Republic of Iran), and 94.113 (Belarus).

<sup>8</sup> A/HRC/18/17, recommendation 95.27 (Brazil).

<sup>9</sup> A/HRC/18/17/Add.1, pp. 6-7.

<sup>10</sup> A/HRC/18/17/Add.1, p. 7.

<sup>11</sup> A/HRC/19/9, recommendation 107.44 (Spain) and A/HRC/19/9/Add.1, paragraph 107.44.

<sup>12</sup> A/HRC/19/9, recommendation 107.16 (Spain) and A/HRC/19/9/Add.1, paragraph 107.16.

appointed expert group charged with reviewing the Mental Health Act 2001,<sup>13</sup> no legislative amendments have been tabled or enacted.<sup>14</sup>

Since its first review, Ireland has ratified the Third Optional Protocol to the Convention on the Rights of the Child, in line with recommendations it received in 2011.<sup>15</sup> It has also signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;<sup>16</sup> however, it has yet to ratify it.

It is regrettable that Ireland has not enacted the legislation necessary to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, despite having signed it in 2007.<sup>17</sup> It has also yet to ratify the UN Convention on the Rights of Persons with Disabilities. Ratification of both Conventions was among Ireland's pledges when seeking election to the UN Human Rights Council in 2012.<sup>18</sup>

Given the prevalence of violence against women and girls in Ireland,<sup>19</sup> it is welcome that Ireland has implemented its 2011 commitment to sign the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.<sup>20</sup> However, Amnesty International understands that the government considers additional legislation necessary to ratify this Convention, and is concerned at the length of time this is taking.

Ireland has not established a national preventive mechanism as required under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment despite having accepted recommendations to do so.<sup>21</sup>

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<sup>13</sup> The Act primarily governs the circumstances in which a person may be involuntarily admitted to, detained and treated in an inpatient mental health facility.

<sup>14</sup> Report of the expert group on the review of the Mental Health Act 2001 and government press release available at <http://health.gov.ie/blog/publications/report-of-the-expert-group-review-of-the-mental-health-act-2001>.

<sup>15</sup> During its first review, Ireland accepted a recommendation to ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography. See A/HRC/19/9, recommendation 106.6 (Chile, Ecuador, Portugal, Slovenia, Turkey, France). Ireland has yet to ratify this Optional Protocol. However, in the meantime Ireland has ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, allowing for individual complaints, in September 2014.

<sup>16</sup> A/HRC/19/9, recommendation 107.4 (Ecuador). A/HRC/19/9/Add.1, paragraph 107.4

<sup>17</sup> A/HRC/19/9, recommendations 106.4 (Iraq, Indonesia, Argentina, Ecuador, Spain, France) and 106.5 (Costa Rica).

<sup>18</sup> Annex to letter dated 13 April 2012 from the Permanent Representative of Ireland to the United Nations addressed to the President of the General Assembly, A/67/80.

<sup>19</sup> In 2014, a Europe-wide survey on violence against women found that that 26% of women in Ireland have experienced physical and/or sexual violence by a partner or non-partner since the age of 15; 31% have experienced some form of psychological violence by a partner, and 15% have experienced physical or sexual violence by a partner; 5% had experienced sexual violence by a non-partner since the age of 15, and 6% had experienced sexual violence by an intimate partner since the age of 15. (European Union Agency for Fundamental Rights, Survey data explorer: Violence against women survey, Ireland, available at <http://fra.europa.eu/DVS/DVT/vaw.php>; Violence against women: an EU-wide survey, Main results report, March 2014, available at <http://fra.europa.eu/en/publication/2014/vawsurvey-main-results>.) These statistics are considered underestimates, as only a minority of those who experience gender-based violence will report this fact to any authority. For instance, Rape Crisis Network Ireland's 2013 statistics reveal that 64% of those who experienced sexual violence did not report the incident(s) to a formal authority or the police. (RCNI National Rape Crisis Statistics 2013, (November 2014) p. 21, available at [www.rcni.ie/wp-content/uploads/RCNI-National-Statistics-2013.pdf](http://www.rcni.ie/wp-content/uploads/RCNI-National-Statistics-2013.pdf).) See also <http://www.safeireland.ie/2014/violence-against-women-every-day-every-where/>.

<sup>20</sup> A/HRC/19/9/Add.1 paragraph 48, referring to recommendation 107.37 (Austria).

<sup>21</sup> A/HRC/19/9, recommendations 106.2. (Estonia, Brazil, Chile, France, Greece, Slovenia, United Kingdom, Switzerland) and 106.3. (Peru).

In 2011, Ireland accepted a recommendation to protect economic, social and cultural rights, but did not fully accept a second recommendation to incorporate into law the rights to health and housing.<sup>22</sup> Amnesty International welcomes the recommendation by the Constitutional Convention in February 2014 that the constitutional protection of economic, social and cultural rights be strengthened and that these rights be made enforceable before the courts.<sup>23</sup> Disappointingly, the government has not yet responded to this recommendation, despite undertaking to do so within a four months period.<sup>24</sup>

Having rejected the recommendation made to it during its 2011 review that it enact legislation to respond to the 2010 decision by the European Court of Human Rights in *A, B and C v. Ireland*,<sup>25</sup> Ireland passed the Protection of Life during Pregnancy Act in 2013. However, both the Act and its accompanying guidelines, published in September 2014, retain the same narrow wording of the life exception – “real and substantial risk” - and therefore do little to address the problems faced by medical professionals to adequately protect the rights of pregnant women and girls.<sup>26</sup>

## PAPUA NEW GUINEA

During its first UPR in May 2011, Papua New Guinea (PNG) accepted recommendations to reinforce the legal framework for the prevention of violence against women,<sup>27</sup> including running a national awareness campaign,<sup>28</sup> creating safe places for victims of gender-based violence,<sup>29</sup> and ensuring comprehensive investigation and prosecution in cases of domestic violence and sorcery-related violence.<sup>30</sup> PNG also accepted recommendations to adopt a national gender policy<sup>31</sup> and to establish a national human rights institution.<sup>32</sup>

In line with recommendations accepted during the 2011 review, the Special Rapporteur on violence against women visited PNG in 2012.<sup>33</sup> However, information available to Amnesty International, including its own research, indicate that violence against women in

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<sup>22</sup> A/HRC/19/9, recommendation 107.4 (Ecuador) and A/HRC/19/9/Add.1 paragraphs 6 and 8.

<sup>23</sup> <https://www.constitution.ie/AttachmentDownload.ashx?mid=adc4c56a-a09c-e311-a7ce-005056a32ee4>. The Constitutional Convention is a panel consisting of 33 members of parliament, 66 citizens and an independent Chair established by the Government in 2012 to independently review certain aspects of the Constitution. Having considered the items set by the Government for it to review, the Convention had one final agenda item it itself could choose to consider at its final session in February 2014; it chose to consider constitutional economic, social and cultural rights.

<sup>24</sup> In the terms of reference it set for the Constitutional Convention and as adopted by the Oireachtas (parliament), the government said it would “provide in the Oireachtas a response to each recommendation of the Convention within four months and, if accepting the recommendation, will indicate the timeframe it envisages for the holding of any related referendum”.

[https://www.constitution.ie/Documents/Terms\\_of\\_Reference.pdf](https://www.constitution.ie/Documents/Terms_of_Reference.pdf)

<sup>25</sup> A/HRC/19/9, recommendation 108.5 (United Kingdom). Ireland stated that it rejected this recommendation on the basis that it had not yet been determined that the A, B and C judgement required legislation.

<sup>26</sup> Amnesty International, *Ireland: Submission to the UN Committee on Economic, Social and Cultural Rights: Pre-sessional Working Group, 1-5 December 2014* (Index: EUR 29/003/2014).

<sup>27</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Papua New Guinea*, 11 July 2011, A/HRC/18/18, recommendations 78.17 (Argentina), 78.18 (Canada), 78.19 (Norway), 78.20 (Republic of Korea).

<sup>28</sup> A/HRC/18/18, recommendation 78.35 (United States).

<sup>29</sup> A/HRC/18/18, recommendation 78.36 (New Zealand).

<sup>30</sup> A/HRC/18/18, recommendation 78.22 (Poland).

<sup>31</sup> A/HRC/18/18, recommendation 78.48 (Switzerland).

<sup>32</sup> A/HRC/18/18, recommendation 78.23 (Samoa), 78.24 (Thailand), 78.25 (Canada), 78.26 (Morocco), 78.27 (Costa Rica), 78.28 (Maldives), 78.29 (Poland), 78.30 (Argentina), 78.31 (Norway), 78.32 (South Africa), 78.33 (France), 78.34 (New Zealand).

<sup>33</sup> A/HRC/18/18, recommendations 78.44 (Slovenia), 78.45 (Norway), and 78.46 (Canada); Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum – Mission to Papua New Guinea*, 18 March 2013, A/HRC/23/49/Add.2.

the home and in the community remains pervasive. Moreover, women continue to be attacked and sometimes killed following accusations of sorcery.

PNG also accepted recommendations to end human rights violations by police officers,<sup>34</sup> to ensure their accountability for respecting human rights,<sup>35</sup> and to carry out effective and independent investigations and prosecutions of alleged excessive use of force by the security forces.<sup>36</sup> However, reports have persisted in recent years of unnecessary or excessive use of force by police and military. The authorities rarely carry out independent investigations into these violations and accountability mechanisms are weak.

## SUDAN

Among the recommendations made to Sudan during its review in 2011, it agreed to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance,<sup>37</sup> the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>38</sup> the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol,<sup>39</sup> and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.<sup>40</sup> Sudan also committed to reforming the Press and Printed Press Materials Act and the Voluntary and Humanitarian Work Act,<sup>41</sup> and voluntarily pledged that “the recommendations which we accept (...) will enjoy our commitment in terms of implementation”.<sup>42</sup>

Sudan also agreed to respect the rights to freedom of expression, association and assembly and to allow human rights defenders, political dissidents and journalists to express their views freely, in line with international human rights law. Amnesty International regrets Sudan's failure to implement many of these recommendations – rather it continues to suppress freedom of expression, association and assembly, and to arbitrarily arrest political opponents. Newspapers continue to face closure and censorship, and journalists are harassed and in some cases arrested, where they are at risk of torture or other ill-treatment.<sup>43</sup>

During the 2011 UPR, Sudan received 13 recommendations in relation to the conflict in Darfur as well as five recommendations urgent it to maintain peace in accordance with the Comprehensive Peace Agreement”.<sup>44</sup> Only weeks later, the conflict erupted in Abyei area

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<sup>34</sup> A/HRC/18/18, recommendation 78.50 (Republic of Korea).

<sup>35</sup> A/HRC/18/18, recommendation 78.56 (Slovenia).

<sup>36</sup> A/HRC/18/18, recommendation 78.57 (Slovakia).

<sup>37</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review – Sudan, 11 July 2011, A/HRC/18/16, recommendations 83.6 (Spain), 83.7 (Ecuador), 84.21 (France).

<sup>38</sup> A/HRC/18/16, recommendations 83.5 (Brazil), 83.6 (Spain), 83.7 (Ecuador), 83.14 (Australia), 84.21 (France).

<sup>39</sup> A/HRC/18/16, recommendations 83.5 (Brazil), 83.6 (Spain), 83.7 (Ecuador), 83.8 (Malaysia), 83.9 (Norway, Belgium), 83.11 (Finland), 83.12 (Republic of Korea), 83.13 (Uruguay), 83.14 (Australia).

<sup>40</sup> A/HRC/18/16, recommendation 84.17 (Austria).

<sup>41</sup> Human Rights Council, 14th meeting on 10 May 2011. *Report of the Working Group on the Universal Periodic Review*, (A/HRC/18/16).

<sup>42</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review, Sudan, Addendum, 16 September 2011, A/HRC/18/16/Add.1, paragraph 10.

<sup>43</sup> Amnesty International: Sudan – Entrenched repression: Freedom of Expression and Association under Unprecedented Attack (Index: AFR 54/1364/2015).

<sup>44</sup> A/HRC/18/16, recommendations 83.53 (United Kingdom), 83.54 (Zimbabwe), 83.55 (Democratic People's Republic of Korea), 83.57 (Canada), 83.58 (Spain), 83.59 (Uruguay), 83.60 (Mauritania), 83.61 (Qatar), 83.72 (Italy), 83.118 (Syria), 83.125 (Austria), 83.126 (Norway), 83.157 (Kuwait), 83.51 (Kuwait), 84.6 (Somalia), 84.7 (Somalia), 83.19 (Singapore), and 84.1 (Djibouti).

on 20 May, on 6 June 2011 in South Kordofan, and after four months, on 2 September, in Blue Nile.

## **SWAZILAND**

Swaziland accepted recommendations to ensure unhindered enjoyment of the right to freedom of expression, and to take immediate steps to repeal laws which criminalize or restrict freedom of expression and freedom of the media, in particular the Sedition and Subversive Activities Act (1938) and the Proscribed Publications Act (1968).<sup>45</sup> Swaziland also agreed to create an enabling environment where civil society members are free to fully exercise fully their rights to freedom of peaceful assembly and association, in accordance with the principles of democracy and in line with international obligations under the International Covenant on Civil and Political Rights, including revoking the royal decree of 1973.<sup>46</sup> Swaziland further agreed to repeal or urgently amend the Suppression of Terrorism Act of 2008 and other pieces of security legislation to bring them in line with international human rights standards.<sup>47</sup> In addition, Swaziland agreed to take concrete and immediate measures to guarantee the independence and impartiality of the judiciary.<sup>48</sup>

Despite these positive commitments, Amnesty International is concerned that no steps have been taken to implement any of these recommendations. Restrictive laws remain in place, with no steps taken to amend or repeal them. The crisis in the rule of law and judicial independence has only deepened. The rights to freedom of expression, association and assembly continue to be violated. Repressive legislation continues to be used to suppress dissent and there has been an upsurge in politically motivated trials. Unfair trials have resulted in people being imprisoned for reasons of opinion and conscience.

Swaziland is yet to put in place measures to safeguard the independence of the judiciary in line with the UN Basic Principles on the Independence of the Judiciary, as it accepted to do in the previous review.<sup>49</sup> It has also failed to implement recommendations from the previous review to remove all restrictions, in law and practice, which prevent the full enjoyment of the right to freedom of association, including associating for purposes of contesting political power, as guaranteed under the International Covenant on Civil and Political Rights and other international standards.<sup>50</sup>

The government has not met previous commitments to repeal or amend the Suppression of Terrorism Act of 2008 and other pieces of security legislation to bring them in line with international human rights standards.<sup>51</sup>

## **THAILAND**

Since the UPR of Thailand in 2011, there has been only limited progress on recommendations accepted by the government on freedom of expression, prosecution of

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<sup>45</sup> A/HRC/19/6, recommendations 77.50 [Slovakia] and 77.54 [Norway].

<sup>46</sup> A/HRC/19/6, recommendations 77.49 [Hungary] and 77.53 [Norway].

<sup>47</sup> A/HRC/19/6, recommendation 77.57 [Sweden].

<sup>48</sup> A/HRC/19/6, recommendation 76.36 [Canada].

<sup>49</sup> A/HRC/19/6, recommendation 76.36 (Canada).

<sup>50</sup> A/HRC/19/6, recommendations 77.49 (Hungary).

<sup>51</sup> A/HRC/19/6, recommendations 77.54 (Norway), 77.57 (Sweden).

offences under the *lèse-majesté* law, asylum-seekers, refugees and migrants found at sea,<sup>52</sup> impunity,<sup>53</sup> and ratification of UN human rights treaties.<sup>54</sup>

Despite committing to ensure that national legislation on freedom of expression is consistent with international law,<sup>55</sup> the government continues to pass and enforce legislation that penalizes the peaceful exercise of this right in a manner that is inconsistent with its international obligations.

Despite the government's undertaking to ensure public and transparent proceedings in trials under Thailand's *lèse-majesté* law,<sup>56</sup> such trials have often been held in camera, including in military courts.

Little progress has been made on commitments to address impunity for rights violations,<sup>57</sup> and the government has not adequately met its undertakings to fulfil the protection needs of asylum-seekers and migrants.<sup>58</sup>

The government signed the UN Convention for the Protection of All Persons from Enforced Disappearance in January 2012. While the government committed to ratify this Convention during the previous review,<sup>59</sup> the National Human Rights Action Plan only contains a commitment to "study" the possibility of ratification.<sup>60</sup>

The government has issued a standing invitation to the UN Special Procedures in line with its voluntary pledge at the 2011 UPR.<sup>61</sup> Of 17 requests for visits by the Special Procedures,<sup>62</sup> only the visit of the Special Rapporteur on the human rights to safe drinking water and sanitation has taken place, in February 2013.

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<sup>52</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Thailand*, A/HRC/19/8, 8 December 2011, recommendations 89.54 (New Zealand), 89.55 (Norway), 89.56 (Norway), 89.66 (Canada), 89.68 (Canada), 89.70 (Canada), 89.71 (Brazil), 89.72. (Switzerland).

<sup>53</sup> A/HRC/19/8, recommendations 89.40 (New Zealand), 89.41 (Spain), 89.42 (France), 89.43 (Switzerland), 88.71 (United Kingdom), 88.68 (Canada), 88.66 (Austria).

<sup>54</sup> A/HRC/19/8, recommendations 89.1 (Argentina), 89.2 (Uruguay), 89.3 (Spain), 89.4 (Austria), 89.11 (France) 89.12 (Nicaragua), 89.13 (Japan).

<sup>55</sup> A/HRC/19/8, recommendations 89.25 (Hungary), 89.54 (New Zealand).

<sup>56</sup> A/HRC/19/8, recommendations 89.55 (Norway).

<sup>57</sup> A/HRC/19/8, recommendations 88.66 (Austria), 88.68 (Canada), 88.69 (Sweden), 89.42 (France), and 89.43 (Switzerland).

<sup>58</sup> A/HRC/19/8, recommendations 88.23 (Viet Nam), 88.93 (Brazil), 88.95 (Myanmar), 88.96 (Bangladesh), 89.66 (Canada), 89.68 (New Zealand), 89.70 (Canada), 89.71 (Brazil), 89.72 (Switzerland).

<sup>59</sup> Report of the Working Group on the Universal Periodic Review, Thailand, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, March 2012 A/HRC/19/8/Add.1, 4 and 5.

<sup>60</sup> Ministry of Foreign Affairs, *The Summary of Thailand's 3rd National Human Rights Plan (2014-2018)*, available at <http://www.mfa.go.th/humanrights/images/the%20summary%20of%20thailands%203rd%20national%20human%20rights%20plan%202014-2018.pdf>

<sup>61</sup> Report of the Working Group on the Universal Periodic Review Thailand, 8 December 2011 A/HRC/19/8, 94.

<sup>62</sup> Of the visits requested by the Special Procedures, the authorities have agreed to the visits, but set no date for these, by the Special Rapporteurs on Torture and on the Sale of Children. Other outstanding requests include the UN Special Rapporteur on freedom of opinion and expression, the UN Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, and the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association.