

Advance Version

Distr.: General
17 February 2022

Original: English

Human Rights Council
Forty-ninth session
28 February–1 April 2022
Agenda item 6
Universal periodic review

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

* The present document is being issued without formal editing.

1. Thailand appreciates the constructive dialogue with all countries and welcomes the recommendations made during our 3rd cycle Universal Periodic Review (UPR) at the 39th session of the UPR Working Group on 10 November 2021 as well as the multistakeholder reports submitted during the process.

2. During the review, we engaged with other States and immediately accepted 194 out of 278 recommendations¹ and deferred the decision on 84 recommendations for further consideration.

3. Subsequently, meetings of the National UPR Committee as well as a focus group discussion were organized to consider all remaining recommendations more in depth with the participation of the relevant implementing agencies. This involved a careful analysis of our obligations under international law, national policies, conditions and circumstances in the Kingdom. As a result, the National UPR Committee decided to support a further 25 out of the 84 deferred recommendations. On 8 February 2022, the position on these remaining recommendations was approved by the Cabinet.

On the ratification of international human rights treaties

The recommendations we support

4. Regarding recommendation **52.3**, we have been working towards accession to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and enactment of its enabling legislation. However, we find that the “Optional Protocol to the Covenant” mentioned in the recommendation does not exist. Hence, Thailand's position is to support recommendation 52.3, noting that there was a mistake with regard to the reference of the Optional Protocol to the ICPPED which does not exist.

The recommendations we note

5. Thailand continues to attach priority to fulfilling our international obligations under the seven core human rights treaties, several relevant Optional Protocols, as well as other related conventions including the ILO Conventions, to which Thailand is party. Regarding recommendations on the ratification of several other treaties, Thailand supports their principled objectives and purposes, which aim to protect rights of specific groups or suppress and prevent specific crimes. However, the recommended actions require more comprehensive analysis, in depth consideration and consultation with all relevant stakeholders as well as internal legislative processes, for which Thailand does not foresee possible accomplishment by the next cycle. Thailand, therefore, notes recommendations **52.4–52.7** and **52.11–52.17**.

6. As for recommendations **52.8–52.10** regarding accession to the Rome Statute and the Agreement on privileges and immunities of the International Criminal Court (ICC), Thailand notes the recommendations and will continue to follow developments concerning the ICC, in particular the recent implementation and amendment of the Rome Statute, closely.

7. Thailand remains committed to strengthening our international cooperation on criminal matters and is ready to consider requests from all States and international organizations, including the ICC.

Civil and political rights

The recommendations we support

8. Thailand reaffirms that the rights to freedom of opinion and expression, and peaceful assembly, are protected under the Thai Constitution of 2017 and related laws, while noting that there remain some challenges in implementation. As such, Thailand intends to continue

to promote freedom of expression and opinion and the freedom of assembly within the boundary of the law without conflicting other rights and protection. Relevant laws and policies will continue to be updated and further upgraded in line with international human rights standards. Thus recommendations **52.54–52.55** and **52.82** enjoy our support.

The recommendations we note

9. We note recommendations **52.46–52.48**, **52.50–52.53**, **52.56–52.68** and **52.83** as we continue to support the principle of maintaining a balance in the exercise of individuals' rights without infringing upon others' rights, national security, public order, and public health.

10. Some restrictions mentioned in the recommendations are temporary by nature, as they were put in place to contain the spread of COVID-19 in the interest of public safety and public health. As the situation improves, there will be a progressive relaxation on such limitations.

11. Moreover, some useful elements in the recommendations will continue to be taken into serious consideration by the relevant agencies as we strive to promote such rights and freedoms while respecting the principle that any restrictions in place need to be based on necessity and proportionality.

The draft Act on the Operations of Non-Profit Organizations

The recommendations we support

12. As a vibrant country and host to many international as well as local civil society organizations, Thailand welcomes the interest on the draft legislation and supports recommendations **52.18–52.22** and **52.24–52.26**, as they are in line with our national priority to promote an enabling environment for the civil society's participation in public affairs in various areas that are conducive to country's economic and social development. However, as the draft legislation undergoes due consideration and improvement in accordance with national processes, it must also be noted that recommending states should avoid using terms that contain prejudgement and unconstructive connotations, such as "repressive" in recommendation **52.19**.

The recommendations we note

13. Thailand notes recommendation **52.23** on the draft Act which forms part of the Government's effort to create transparency and a more comprehensive oversight and promotional framework for NGOs. In view of its endorsement in principle by the Cabinet as well as the on-going processes, withdrawal of the draft Act from the legislative process is, therefore, not plausible.

Death penalty

The recommendations we support

14. As indicated in the 2nd, 3rd and 4th National Human Rights Plans, the Government is committed to moving towards the abolishment of the death penalty. This is with an understanding that we will use a phased approach in the implementation of such objective. Thailand, therefore, welcomes and supports recommendations **52.1** and **52.35**, among others, concerning ratification of the Second Optional Protocol to the ICCPR, as the recommendations involve deliberative actions on the Optional Protocol and engagement with all sectors of society, such as "consider" ratifying and "strengthen public awareness".

The recommendations we note

15. On the other hand, Thailand notes recommendations **52.2**, **52.32–52.34** and **52.36–52.44** as they all require immediate actions that are inconsistent with the stage of national discussions.

Rights of specific groups

The recommendations we support

16. Thailand supports recommendations **52.27**, **52.69–52.70**, **52.72**, **52.74**, **52.75**, **52.77–52.79**, as they are in line with our obligations under international law and policies to promote and protect the rights of vulnerable groups. In addition, Thailand wishes to note that supporting recommendations **52.27** and **52.72**, which contain the terms “indigenous”, does not constitute an acceptance that the term “indigenous people” applies to those people belonging to various ethnic groups in the Kingdom who form an integral part of the nation.

The recommendations we note

17. Thailand notes recommendation **52.76**, as the legal provision cited in the recommendation had already been amended but details on other elements would need further legislative work. We note recommendations **52.71**, **52.73** and **52.80** as they are not consistent with our plans and priorities at this stage.

LGBTI+

The recommendations we note

18. Despite the interest in, and the importance the Government has placed on, the promotion and protection of the human rights of people from diverse groups including LGBTI+ persons as well as the recent developments to modernize the country’s legislation in this area, we note recommendations **52.28–52.31** as they elaborate specific elements for the law and time frames that are too restrictive to be consistent with the current dynamic of the on-going discussions or which may not be attainable within the next cycle. However, our efforts to make constant progress in this area will continue.

Human rights defenders

The recommendation we support

19. We support recommendation **52.84**, as it is consistent with Thailand’s practices and principle to create an enabling environment for human rights defenders to safely work and play their part in contributing to the Government’s efforts to promote and protect human rights in the country.

The recommendation we note

20. Thailand notes recommendation **52.81**, which requires the amendment of sections of the Penal Code which is not included in the current legislative plan of the Government.

Cybersecurity

The recommendation we support

21. The Government is aware of the progress and development in information technology as well as its intensified use, particularly through social media platforms. Measures are in place to enhance access to information by all and to bridge the digital divide that continues to persist. At the same time, a balanced approach must be mentioned in order to ensure protection of the rights to freedom of opinion and expression while effectively addressing possible harm and risk from various types of activities and information flows in cyberspace. Thailand thus supports recommendation **52.49** as it is in line with our approach.

The recommendation we note

22. At the same time, Thailand is not in a position to support recommendation **51.1**, as the recommendation requests the removal or amendment of the law and the Penal Code. The Government, however, will continue to ensure that its implementation is in compliance with the country's obligations under international law.

Others

23. Thailand notes recommendation **52.45**, as the recommendation does not contain sufficient information as the basis for the Government to proceed and implement, i.e. it explicitly highlights the case of one individual, but provides ambiguous information about other cases. Thailand continues to take seriously the reports of enforced disappearance and is determined to address the issue of missing persons in a more comprehensive manner, including through due process of law as well as the passing of needed legislation.

24. In all, of the total 278 recommendations received, Thailand supports 218 recommendations and notes 60 recommendations.

Notes

¹ Initially Thailand had immediately supported 194 recommendations. However, Thailand was later on drawn to the attention regarding the clarification for recommendation 51.1 with explicit reference for Thailand to repeal or amend its cybersecurity laws and Penal Code. Thailand, therefore, had to change its position on this recommendation from immediately accepting to note the recommendation.