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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **San Marino**

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## **I. Introduction**

1. San Marino attaches great importance to the promotion and protection of human rights and, within international fora, it supports initiatives in all areas aimed, in particular, at the elimination of the death penalty all over the world, the defence of freedom of religion and belief, the protection of the rights of children and women, with special attention to the prevention of domestic violence and the protection of victims, the promotion of democracy and the rule of law.
2. San Marino fully supports the mechanism of Universal Periodic Review (UPR) and recognises the great importance of the UPR in improving the situation of human rights in the world.
3. The Republic of San Marino submitted the first report on the situation of human rights for the Universal Periodic Review on 29 November 2009.
4. The report produced by the UPR Working Group was adopted at the 14th session of the Human Rights Council on 10 June 2010 and contains a number of conclusions and recommendations addressed to San Marino.
5. Despite its limited territorial size – San Marino is one of the smallest States in the world, with a territory of 61 square kilometres and a population of 32,646 inhabitants as of April 2014 – the country is convinced that its efforts in the field of human rights can offer a valuable contribution to the protection and promotion of human rights at an international level. At the same time, it is fully aware of the many challenges still to be addressed and it is certain that this second evaluation round will be a valuable aid in the identification of deficiencies and possible solutions to be implemented.
6. Several of the provisions approved in San Marino since the adoption of the report in 2010, which will be outlined in the following paragraphs, are based on the recommendations of the Human Rights Council, as well as on indications from other international monitoring bodies. It should be stressed that the severe international economic crisis has also adversely affected San Marino in the last four years. Therefore, measures became necessary to support the most vulnerable social groups that suffered the most from the negative effects of such crisis.

## **II. Methodology and consultation in the preparation of the report**

7. San Marino has the honour to submit its second report on the situation of human rights in accordance with the general guidelines adopted by the Human Rights Council for the second round (A/HRC/DEC/17/119).
8. As with the first report, San Marino has decided to use the thematic structure of the Universal Declaration of Human Rights following the order of the rights and freedoms contained therein.
9. This report was prepared by the Ministry of Foreign Affairs with the involvement of the Ministries of Internal Affairs, Health, Labour and Education, as well as of the competent administrative offices.
10. The report addresses the progress made in the field of human rights from 2010 onwards, with particular attention to legislative changes introduced, international instruments ratified and policies implemented.

11. The responses to the recommendations made by the member States and observers of the Human Rights Council during the previous review, which were accepted by San Marino, are grouped by thematic subject. In this document, San Marino reports on the status of their implementation.

### III. Regulatory and institutional framework

12. The institutional organisation of the Republic of San Marino rests upon Law no. 59 of 8 July 1974, Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order, as amended by Laws no. 95 of 19 September 2000 and no. 36 of 26 February 2002.

13. This Declaration takes the value of a Constitution and is intended to establish the rules of the institutional organisation, as well as the main civil, political and social rights and the main freedoms recognised by the Republic of San Marino.

**Recommendation 72.2:** To clarify the status of the relationship between San Marino's international obligations and its domestic legislation, to ensure that those international obligations are given effect by domestic courts, and to carry out a comprehensive review of its *ius commune* in order to identify provisions of domestic legislation that contradict principles and provisions of the Conventions, as recommended by the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, respectively.

14. Under Article 1 of the Declaration on the Citizens' Rights, generally recognised rules of international law are integral part of San Marino constitutional order: the Republic is therefore committed to conforming its acts and conduct to such rules. Under the Declaration on the Citizens' Rights, the Republic is also committed to recognising the provisions set forth in the international declarations on human rights and fundamental freedoms, as well as to adhering, in its international policy, to the principles enshrined in the Charter of the United Nations.

15. San Marino constitutional order "recognises, guarantees and enforces the rights and fundamental freedoms set forth by the European Convention for the Protection of Human Rights and Fundamental Freedoms", while "regularly signed and implemented international agreements on the protection of human rights and freedoms shall prevail over domestic legislation in case of conflict". In this way, the Declaration on the Citizens' Rights confirms the primacy, in case of conflict with domestic legislation, of international agreements on the protection of human rights and freedoms to which the Republic is a party.

16. Therefore, these agreements are not only recognised as criteria for the interpretation of domestic legislation, or as guiding criteria in the adoption of law provisions, but also and mainly as directly applicable agreements, even in the absence of a specific implementing domestic law.

**Recommendations 70.1, 70.2, 71.5, 71.6 and voluntary commitment 71.8:** To ratify or accede to the following international instruments: Optional Protocols to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (70.1) and on the Involvement of Children in Armed Conflict (71.5), Protocol to the United Nations Convention against Transnational Organized Crime (Palermo Protocol) to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (70.2), Convention on the Prevention and Punishment of the Crime of Genocide (71.6), Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (71.8).

17. With reference to the ratification of international instruments, San Marino accepted four recommendations.

18. On 21 July 2011, San Marino ratified the two Optional Protocols to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and on the Involvement of Children in Armed Conflict. The two Protocols entered into force for San Marino on 26 October 2011.

19. On 1 July 2010, San Marino ratified the United Nations Convention against Transnational Organized Crime and its Additional Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and against the Smuggling of Migrants by Land, Sea and Air. The Convention and the two Additional Protocols entered into force for San Marino on 19 August 2010.

20. On 23 October 2013, San Marino acceded to the Convention on the Prevention and Punishment of the Crime of Genocide. The Convention entered into force for San Marino on 6 February 2014. As a result of this accession, the Congress of State (Government) approved the Draft Law "Provisions on the Prevention and Punishment of the Crime of Genocide with Decision no. 12 of 23 April 2014, which mandated the Minister of Internal Affairs and Justice to start the parliamentary procedure. The Draft Law was then approved by the Great and General Council (Parliament) in the first reading on 13 May 2014 and submitted to the competent Permanent Parliamentary Commission for its examination and approval.

21. The Republic recognises the importance of providing San Marino citizens and foreigners living in the territory of the country with the possibility to resort to international mechanisms to submit reports and complaints when they consider that their fundamental rights have been violated. Therefore, San Marino recognises the individual complaint mechanisms of the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of Persons with Disabilities. Moreover, it is considering the possibility of acceding to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

22. In recent years, San Marino has ratified several international instruments in the field of human rights, including the Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse, the Council of Europe Convention on Action against Trafficking in Human Beings, the Protocol no. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Charter of Local Self-Government.

23. On 21 July 2011, San Marino ratified the amendment to Article 8 of the Statute of the International Criminal Court and is completing the procedure for the ratification of the amendments to the Statute on the crime of aggression.

24. In addition, San Marino signed Protocol no. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. The ratification procedure is ongoing for both instruments.

**Recommendation 71.18 and 71.19:** To address the issue of timely reporting to human rights monitoring bodies; To strengthen cooperation with treaty bodies and the special procedures of the Human Rights Council.

25. During the previous review, San Marino had committed to tackling the problem of delays in the submission of periodic reports to the monitoring bodies of the United Nations, due to staff shortages in the areas of public administration entrusted with the preparation of reports. Unfortunately this problem was not solved and it was not possible, within the relevant time frame, to submit the reports due to the monitoring bodies of the United

Nations. In this regard, worth considering is that, due to the international economic crisis affecting also San Marino, the Government ordered a hiring freeze in the public sector.

26. These delays are not due to a lack of political will to comply with the reporting requirements. On the contrary, the Government of the Republic of San Marino attaches the utmost importance to the functions of control of the application of international rules, in terms both of verification and of stimulus and encouragement to improve. In numerous cases, important legislative measures, aimed at improving existing standards of protection and promotion or at establishing new ones, were introduced following specific recommendations from regional and/or international monitoring bodies.

27. At present, San Marino Administration is drafting the periodic Report under the International Covenant on Civil and Political Rights and is updating its Core Document. These two documents will be submitted to the United Nations monitoring bodies as soon as possible.

28. Although San Marino is not in a position to fully comply with treaty obligations of timely reporting, it has demonstrated its willingness to completely cooperate by extending, from April 2003, to all thematic special procedures a standing invitation to visit San Marino. To date, San Marino has not received any visit.

29. The Republic of San Marino also supports the full enforcement of Resolution 68/268, adopted by the UN General Assembly on 9 April 2014. This Resolution will effectively improve the situation regarding the submission of national reports relating to human rights treaties through a simplified procedure and harmonisation of the working methods of the human rights treaty bodies. In full respect of the independence of any treaty body, each of them may give effect to the Resolution by facilitating the presentation of national reports, in the interests of the States involved and of the overall functioning of the monitoring mechanisms established by relevant UN Treaties.

30. Furthermore, over the last four years some bodies of the Council of Europe, such as the Committee for the Prevention of Torture (CPT), the European Commission against Racism and Intolerance (ECRI), the Commissioner for Human Rights and the Group of Experts on Action against Trafficking in Human Beings (GRETA) have visited San Marino periodically. The utmost cooperation was granted to all of them and the Government responded and followed up the questions and recommendations addressed to it.

## **IV. Protection and promotion of human rights**

### **A. Equality, non-discrimination and individuals with specific rights**

31. San Marino has a comprehensive legislation and active policy measures to promote the equality of all persons before the law and equal treatment in all areas. Art. 4 of the Declaration on the Citizens' Rights provides that all shall be equal before the law, without any distinction based on sex or personal, economic, social, political and religious status and establishes that all San Marino citizens shall have access to public services and elective posts without any discrimination. This Article highlights the engagement of the Republic of San Marino to positively promote the principle of equality, not only by removing obstacles to its implementation but also by ensuring "equal social dignity and equal protection of rights and freedoms".

32. The rights and freedoms set forth by international conventions are integral part of San Marino constitutional order and the Republic gives constitutional status to the European Convention for the Protection of Human Rights and Fundamental Freedoms

(ECHR), whose Article 14 provides for the prohibition of discrimination as a sine qua non condition to enjoy fundamental rights and freedoms.

33. On 28 April 2008, the Great and General Council approved Law no. 66 “*Provisions against racial, ethnic and religious discrimination*”. This Law represents an important provision confirming the commitment of San Marino Government and Parliament to promoting the principle of non-discrimination. It also implements the international commitments undertaken by San Marino by adopting the main international legal instruments in this regard, such as Protocol No. 12 to the ECHR and the International Convention on the Elimination of All Forms of Racial Discrimination.

**Recommendations 72.5, 72.6, 72.7:** To consider amending the Declaration on the Citizens’ Rights to expressly include such grounds as race, colour, language, nationality and national or ethnic origin, which are currently subsumed under the notion of “personal status”. To adopt a comprehensive legal framework explicitly prohibiting discrimination on the various grounds that are currently subsumed under Article 4 of the Declaration on the Citizens’ Rights. To explicitly include sexual orientation and gender identity as protected grounds under the principle of non-discrimination in relevant legislation and programmes, and to apply the Yogyakarta principles with regard to human rights and sexual orientation and gender identity.

34. These recommendations had not been accepted by San Marino during the previous review. However, we would like to reiterate that the expression “personal status” is intended to recognise the illegitimacy of any discriminatory behaviour based on the status and qualities relating to the person, thus creating, instead of a closed list of fundamental rights, an open, flexible and progressive constitution, whose contents are able to adjust to the evolution of international treaty law in the field of fundamental rights and freedoms.

35. This choice is in line with Protocol no. 12 to the ECHR, ratified by San Marino on 18 March 2003, which prohibits discriminatory behaviours based on any status and which has often been applied in domestic case-law.

## 1. Women

36. A key priority for San Marino national policy is the protection of women’s rights and the promotion of their role in society. Over the last years, San Marino Parliament adopted important law provisions related to violence against women and enforced measures for their protection.

**Recommendations 70.6, 70.7 and 70.8:** To fully and thoroughly implement Law no. 97 of 20 June 2008, on the prevention and repression of violence against women and gender violence; To provide secure shelter, as well as psychological and other assistance, to victims of domestic violence; To provide specialized training to the police forces on how to deal with situations of domestic violence.

37. Law no. 97 of 20 June 2008, “Prevention and elimination of violence against women and gender violence” established the Authority for Equal Opportunities. This body is composed of three members appointed by the Parliament, who remain in charge for 4 years and are chosen from among legal experts, representatives of NGOs active in the field of equal opportunities and experts in communication and psychology. Delegated Decree no. 60 of 31 May 2012, implementing Article 4 of Law no. 97 of 20 June 2008, has established the various forms of assistance to the victims of violence.

38. Such Decree specifies the operational tools of the Authority in the framework of the tasks entrusted by Law no. 97/2008. The Authority promotes and supports any initiative aimed at the prevention of violence, providing support to victims, including through the signing of specific operational protocols. It fosters and monitors the activities of the

associations promoting awareness of the services that provide assistance and able to start prevention projects. In addition, it promotes the conclusion of a convention, on an annual basis and through the Directorate General of the Social Security Institute, with a “Shelter Centre” in the nearby or private facilities in the Republic of San Marino.

39. In 2012, a technical-institutional panel was established with the task of coordinating the activities envisaged in the Law and in the Delegated Decree. Such panel is composed of one representative per each of the following institutions: Authority for Equal Opportunities, Police Forces, Directorate General of the Social Security Institute, Lawyers’ Association, Psychologists’ Association, Schools and Single Court.

40. The Mental Health Public Service offers psychological and other assistance to the victims of domestic violence and in 2012 a Centre of Assistance was established for the victims of violence, including stalking and mobbing. At the Centre of Assistance, psychologists provide support and advice to the victims of violence. In addition, the Authority for Equal Opportunities is available by phone 24 hours a day to provide support, assistance and cooperation to victims of violence, by guaranteeing anonymity.

41. Awareness and information campaigns addressed to the civil society were also launched. The adoption of Law no. 97/2008 was publicised through an informative and explanatory brochure distributed throughout the national territory and sent to all families by post. The Authority for Equal Opportunities promotes several initiatives addressed to the wider public on issues of gender-based violence, including through cinema and theatre.

42. Decree no. 60/2012 provides for the mandatory training for all operators dealing with violence in various capacities (school, police forces, health and social services, lawyers and court). The Authority is responsible for annually promoting compulsory professional training courses in order to provide adequate tools and train personnel specialised in the fields of juridical, psychological and legal assistance to the victims of violence. The courses were launched in 2012 in collaboration with the Department of Training of the University of San Marino and a multiyear general plan will be soon developed for the training and refreshing of all operators, including police forces. During these courses, the contexts in which the actions of gender violence arise and the relevant reasons are analysed, in order to identify and prevent them, as well as the best practices shared at a national and international level in the field of assistance to victims.

43. Moreover, the Authority for Equal Opportunities acts in coordination with the Health Authority in order to guarantee the collection of data on violence against women and gender violence. In 2013, statistics showed that the phenomenon of violence is present in the territory, albeit with limited numbers, and reports and requests for help from the relevant services are increasing. From the Authority’s interviews with the operators of public services it can be inferred that the increase in requests for help is partly due to a greater sensitivity and understanding of the measures available to victims and increased sensitivity and professional skills of operators. Worth noting is also an increase in criminal proceedings following complaints primarily filed with law enforcement authorities, and this highlights the increased sensitivity of the various police corps in the approach with victims. In the period June 2008–December 2013, the Law Commissioner – acting as Guardianship Judge – received 171 reports of gender-based violence.

## 2. Children

**Recommendation 71.22:** To assess the possibility of eliminating the concepts of “legitimate children” and “natural children”, which, according to the Committee on Economic, Social and Cultural Rights, continue to exist in the domestic legal order.

44. Art. 12, paragraph 3 of the Declaration on the Citizens’ Rights, guarantees that “children born outside wedlock shall enjoy spiritual, legal and social protection and be

treated on an equal footing as legitimate children.” To welcome the recommendation 71.22, the Congress of State has established, with Decision no. 21 of 24 June 2014, a working group in charge of preparing an ad-hoc draft law to adapt the terminology of San Marino legislation to the recommendations in question and to review the provisions in force concerning filiation by eliminating the concepts of “legitimate” and “natural” children. It should be emphasized that it is only a matter of language, since in San Marino legislation there are no differences in treatment between these categories of children. The Group has already started to work.

**Recommendations 71.23, 71.24, 71.25, 71.26 and 71.27:** To abolish corporal punishment by law and in practice, by enacting specific national legislation prohibiting corporal punishment in all environments; To pursue the changes envisioned with regard to the criminal liability of minors.

45. By accepting the aforesaid recommendations, the Government of San Marino approved, with Decision no. 17 of 17 June 2014, the Draft Law “Provisions on maltreatment within the family and on children”. Such Draft Law prohibits corporal punishment of a family member or a cohabiting person and provides for more severe penalties for corporal punishment of a child aged less than 14.

46. The same Draft Law raises the age of criminal liability of children from 12 to 14 years, confirming that, with a view to assessing a minor’s mental capacity, the judge shall always order a biopsychic expert’s report.

47. In addition, the Draft Law, in accordance with a recommendation made to San Marino by the Committee on the Rights of the Child in October 2003, establishes the right of the adoptee to know his/her origins, instructing the Registrar of the Vital Statistics Office to provide the adoptee having already reached the age of majority with certificates, extracts or copies concerning facts and information relating to the adoption relationship.

48. First-reading examination of the Draft Law is on the agenda of the session of the Great and General Council convened from 14 to 22 July 2014.

### 3. Persons with disabilities

**Recommendations 70.4 and 70.5:** To fully implement the Convention on the Rights of Persons with Disabilities and to further integrate persons with disabilities into society.

49. The Ministries of Health and Social Security and of Education and Culture are working together on the drafting of a Framework Law on disability, which should transpose the Convention on the Rights of Persons with Disabilities. In addition to the Framework Law, the Working Group entrusted with the drafting of the Law is also working on the preparation of Delegated Decrees relating to specific themes, such as the elimination of architectural barriers, learning support teachers at school, job placement, health and social inclusion. The Framework Law provides for the establishment of a Commission that will be tasked to promote, protect and monitor the implementation of the UN Convention. At present, we are not able to define the timing for its submission to the Great and General Council and for its subsequent approval.

50. The San Marino Bioethics Committee, referred to in paragraph 52 below, has worked in consultation with the Ministry of Health and the Ministry of Education to raise the awareness of citizens about the issues of disability and inclusion, also through the publication of the document “The bioethical approach to persons with disabilities” in two languages (Italian and English). In December 2013, San Marino hosted the presentation of the document prepared by the San Marino Bioethics Committee. During the event, a round table was held on the theme “respect for human rights and promotion of inclusion.”

## **B. Right to life, prohibition of slavery and torture**

*Recommendation 70.10:* To continue to protect the right to life from conception to natural death.

51. The Republic of San Marino continues to protect the right to life from conception to natural death: indeed, the Criminal Code punishes the crime of homicide and injury, both intentional and unintentional, infanticide, instigation or assistance to suicide and procured abortion. The death penalty was abolished in San Marino in 1865: San Marino was the first country in Europe and the third in the world to abolish the death penalty and, within international fora, great attention is paid to initiatives to abolish the death penalty in the world.

52. To protect the dignity of human life and evaluate the ethical, scientific and methodological aspects of issues involving bioethics, in line with the principles enshrined in the international conventions in the field of bioethics, Law no. 34 of 29 January 2010 established the San Marino Bioethics Committee, with the task of supporting and advising the Government and the Parliament and of authorising research and experimentation activities relevant from the point of view of ethics. To be functional to the national San Marino context, the Committee is made up of a core group of three experts in the legal field, in bioethics and in clinical trials. This group is integrated, depending on the areas in which the Committee is called upon to intervene, by professionals with proven experience in various areas of intervention and it may also rely on external advice. The Committee's activities are governed by Delegated Decree no. 2 of 17 January 2011.

53. In January 2013, the San Marino Bioethics Committee approved a guidance document to define the process of death and the criteria for its determination, having as a bioethical prerequisite the absolute protection of human life until the last moments.

54. Moreover, in the field of health, Law no. 7 was adopted on 21 January 2010 "Framework Law on the use of human blood, cells, tissues and organs", which is a fundamental starting point for adapting San Marino legislation on the use of human blood, cells, tissues and organs to that of EU countries. This Law guarantees the quality and safety of the use of human blood, cells, tissues and organs and ensures that development of biomedical research takes place in facilities recognised and accredited at European level. In addition, this Law establishes the transposition of the guidelines concerning good manufacturing practices relative to medicinal products for human use, including those still being tested, in line with what already envisaged by the legislation in force on the authorisation of health activities, and with the role and functions of San Marino Bioethics Committee.

## **C. Administration of justice and right to a fair trial**

55. In the reference period, San Marino Parliament approved a number of laws relating to the administration of justice and aimed at improving the efficiency of San Marino judicial system.

56. Law no. 99 of 29 July 2013 "Liability of legal persons" provides for direct liability of collective entities for crimes committed in their interest or related to such entities by a functional relationship. Therefore, the provisions of the Criminal Code and of the Code of Criminal Procedure apply to entities, companies, associations (even if not recognised), public entities to the extent that they are engaged in economic activities. This rule repealed the previous Law no. 6 of 21 January 2010, which allowed in some cases to exclude the criminal sanction.

57. Law no. 41 of 31 March 2014 “Extradition Provisions”, drawn up on the basis of the Model Treaty of the UN Commission on Crime Prevention and Criminal Justice, introduces a more complete discipline – at the level of positive law, previously covered by Article 8 of the Criminal Code – on extradition, in order to comply with international and European standards. This Law reaffirms the principle of dual criminality, according to which extradition is allowed only when the fact is considered a crime under San Marino law and that of the applicant State, as well as the fact that the provisions of international conventions in force for the Republic always prevail.

58. Law no. 42 of 31 March 2014 regulates the institution of Criminal Decree, which is the only special proceeding of San Marino criminal procedure; the special feature consists in the initial elimination of the hearing following a decree of the investigating judge, which can be reintroduced at a later time. In other words, the investigating judge, after examining the documents and following investigations, may terminate the proceedings by issuing the decree of criminal conviction without any hearing. This procedure, envisaged for minor offences usually punishable with pecuniary sanctions, fits into the logic of acceleration of proceedings and reduction of the workload for the individual judges. The hearing can be reintroduced at a later time through formal establishment of an appeal procedure by the party or the Procuratore del Fisco (Public Prosecutor)

59. From 29 January to 1 February 2013, San Marino was visited by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). In acceptance of the recommendations made by the CPT, a Technical Working Group was established by Congress of State Decision no. 8 of 23 September 2013. The Group was entrusted with the revision and amendment of the rules concerning the prison system and, in particular, of Law no. 44 of 29 April 1997 “Penitentiary Law” and the Penitentiary Regulation approved by Congress of State Decision no. 42 of 26 May 1997 and subsequent amendments and supplements. The Group is continuing its work.

60. Finally, Congress of State Decision no. 20 of 12 February 2013 established a Technical Working Group entrusted with the drafting of a new Code of Criminal Procedure, whereas a Technical Working Group was set up by Decision no. 22 of 12 February 2013 to reform the civil procedure. The Groups are continuing their work.

#### **D. Freedom of movement, residence and asylum**

61. The entry and stay of foreigners in the Republic are regulated by Law no. 118 of 28 June 2010 and subsequent amendments and additions and the relevant implementing Regulation no. 186 of 26 November 2010 and subsequent amendments and additions.

62. A fundamental requirement to enter and stay in San Marino is the possession of a valid Schengen visa (in case of extra-Schengen citizens) or of an ad-hoc stay permit in a Schengen country. No distinction is made according to the origin of the foreigner. The only difference is between San Marino citizens and foreign citizens.

63. The various types of residence permits are granted, besides for tourism, for family reunification or when there are special conditions, such as for purposes of study, work, sport, medical care or treatment, rehabilitation and exercise of religious ministry.

64. Residence is granted automatically in the event of marriage or on request in the case of possession of an ordinary stay permit for at least five years. Furthermore, the residence permit can be granted through a measure of the competent permanent parliamentary committee to any person who holds executive positions or positions of major importance in health, socio-sanitary structures, as well as in banking, insurance and financial institutions and entities dealing with public security issues; who holds executive positions in companies established under San Marino law and with a significant number of employees; who invests

or has invested capital in productive activities and guarantees to hire a certain number of employees; to first instance judges of the Single Court.

65. The Law has also introduced a cohabitation permit issued to a foreign citizen cohabiting with a San Marino citizen or a resident foreign citizen; a parental permit issued to parent, who is not self-sufficient, of a person residing or holding a stay permit; a permit for minors, issued to a minor whose parents hold a residence permit for reasons of work or sports or a cohabitation permit.

66. Apart from public order reasons and in case of specific criminal convictions, residence is revoked when the reason at the basis of its granting no longer exists, including the termination of the civil effects of marriage, unless five years have elapsed since marriage or a child was born from marriage.

67. The Republic of San Marino has not established any procedure for processing and adjudicating asylum claims. However, Article 14 of the recent Law no. 118/2010 and subsequent amendments has introduced the “Extraordinary stay permit for humanitarian needs of social protection”. These permits, issued by the Congress of State, may be granted in case of special humanitarian needs of social protection and entitle the holders to receive health services and temporary economic benefits from the Social Security Institute.

## **E. Right to citizenship**

68. By means of Law no. 35 of 30 March 2012 the Great and General Council introduced “extraordinary provisions on naturalization” in order to recognize the legitimate expectations of those who have been living in San Marino for years, thus having established with it and its community a solid relationship, which is often favoured compared to that with the country of origin. By virtue of such Law, on 30 June 2013 a solemn ceremony was held before the Captains Regent for the acquisition of San Marino citizenship by 222 naturalized citizens.

69. In San Marino citizenship by means of naturalization is acquired through extraordinary laws. For several years the political parties have been wondering whether naturalization should be acquired through an extraordinary or ordinary law. Also in the most recent case, at the end of the debate, the parliamentary majority decided to maintain the extraordinary nature of the intervention.

**Recommendation 71.31:** To soften the very strict demands for acquiring citizenship, and ensure non-discrimination particularly for children who have one parent who does not have the citizenship of San Marino.

70. Law no. 35/2012 has reduced the general requirement of actual stay in the territory to apply for citizenship from 30 to 25 years and to 18 years for those who have been living in the territory since birth. It has kept the 15-year period for the spouses of San Marino citizens, also covering situations of widowhood, and has provided an abbreviated naturalization process for stateless persons.

71. Under said Law, the children who have only a parent naturalised are treated equal to those having both parents naturalised. Indeed, the different condition of parents envisaged by the Law of 2000 had such an adverse impact on minors that it created a discriminatory situation. The Law also provides for the case of a minor whose parent died before applying for naturalisation for him/herself and his/her minor children, as he/she met the relevant requirements.

72. Law no. 35/2012 has confirmed the duty to renounce the citizenship already possessed or any other citizenship. In order to include a person in the registers of citizens it is sufficient that the naturalised person demonstrates he/she expressed his/her willingness to

renounce the other citizenships held, with an act addressed to the competent foreign authorities. Such renunciation shall be formalised by one year.

## **F. Right to a family**

*Recommendation 70.9:* To continue to protect the institution of the family, based on a stable relationship between a man and a woman.

73. San Marino continues to protect the institution of the family, understood as a union between a man and a woman which includes children born or adopted during the marriage.

74. Recent Law no. 43 of 31 March 2014 applies the same treatment granted to birth parents to adoptive and foster parents and extends the right of a parent to be absent from the workplace, in the case of child's illness certified by a physician, for the entire duration of the disease for children up to 6 years and for 5 working days per year for children aged between 6 and 14. 4 permits are paid per month in case of assistance to a family member with severe permanent or temporary disabilities, or suffering a serious age-related disease, whether permanent or temporary, that requires assistance.

75. The family is protected even after its dissolution following a separation. Law no. 57 of 29 May 2013 "Family mediation" established in San Marino system the function of the family mediator, who provides strong support to parental couples experiencing separation. The Law gives the couple undergoing separation the possibility of meeting with a neutral and qualified professional, chosen by mutual agreement, who facilitates communication and discussion between the parents on all aspects concerning the relationships with their children (education, health, maintenance, leisure, acquaintances, organization of the presence of each of them with their children) and other issues of disagreement (such as, for instance, economic issues) so that the parents themselves develop a separation program which is satisfactory for them and for their children based on which they can exercise their joint parental responsibility. Delegated Decree No. 120 of 2 September 2013 "Rules concerning family mediation" creates the register of family mediators and outlines the code of conduct by which they must abide.

76. In addition, on 25 October 2013 the Ministry of Health and Social Security presented, in first reading, the Law "National Observatory on the Family", which is pending examination by the competent Permanent Parliamentary Commission. The Law establishes the National Observatory on the Family, providing scientific and technical support for the development of family policies. The Observatory carries out activities related to study, research, documentation, promotion and advice on family policies.

## **G. Freedom of thought, conscience, religion and expression**

77. Freedom of conscience and religion enjoys special protection in San Marino, not only at a constitutional level, but also under criminal law. Indeed, the Criminal Code, in force since 1 January 1975, envisages, in Chapter II, a series of "Crimes against religion" punished as offences, with a protection extended to all religions without distinction.

78. Freedom of expression of thought, in all its forms, including the right to give and receive information, is an essential element of San Marino society.

79. On 13 January 2014, the parliamentary procedure was started to approve the Draft Law "Law on Publishing and the profession of media operators", which is currently pending examination by the competent Permanent Parliamentary Commission. The text will provide a framework for all stakeholders in the field of information and publishing, such as journalists, publicists and publishers. It will ensure the freedom of those providing the

news, as well as the protection of anyone who is the subject of such news, so as not to allow misuse of information, while sanctioning wrongful and legally punishable conduct.

80. In May 2013, a first conference on press freedom was held in San Marino. The event, entitled “Free press, free State”, was attended by distinguished Italian and San Marino guests and allowed, for the first time, to directly exchange views with professionals of the sector in an atmosphere of openness towards Europe and the deeply changing world of information. The event was held for the second time on 3 May 2014 on the occasion of the World Press Freedom Day, and the issues covered by the relevant legislation as well as the application thereof were discussed with experts in the field.

## **H. Freedom of assembly and association**

81. In the next parliamentary session (July 2014), the draft law “Law on volunteering” will be presented, in first reading, that represents a solid starting point towards the positive recognition of this social phenomenon. Article 1 stipulates that the Republic recognizes the high humanitarian, social and solidarity-based value of volunteering as an expression of participation, solidarity and pluralism, by promoting its development and protecting its autonomy. It favours the achievement of the social, cultural and civil purposes of volunteering and promotes it as an instrument for a real and complete growth of the individual and the community. The draft law also covers the international voluntary service, in accordance with the principles enshrined in the Universal Declaration on Volunteering (Amsterdam, 2001).

## **I. Right to participate in the cultural and political life of the country**

82. From 2010 to date, in the Republic of San Marino elections took place for the renewal of the Great and General Council (11 November 2012) and three rounds of referenda were held.

83. On the occasion of the elections of 11 November 2012, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), at the invitation of the Permanent Mission of the Republic of San Marino to the OSCE, undertook a Needs Assessment Mission (NAM) in San Marino from 17 to 19 October 2012. In the Mission final document, high confidence was expressed in the integrity of the electoral process and the ability of the election administration to organize elections professionally and transparently. It was also stated that the election process could be further improved, thanks to an independent external evaluation. In particular, a number of aspects could be brought further in line with OSCE commitments and international standards, including provisions for candidate registration, campaign finance, and election observation. Ongoing discussions regarding out-of-country voting could also benefit from external expertise on good practices in this area.

84. However, due to lack of time and of human and financial resources, the OSCE/ODIHR decided not to send an observation mission for the early parliamentary elections of 2012. The OSCE/ODIHR, however, stated that it stands ready to assist San Marino in any future electoral reform, including a review of current electoral legislation.

85. In order to make it easier for San Marino citizens to resort to the instrument of the referendum, particularly in light of the fact that one-third of the population of San Marino lives abroad and that, therefore, the quorum for the approval of a referendum is often difficult to reach, the Great and General Council adopted Qualified Law no. 1 of 29 May 2013 “The referendum and the popular legislative initiative”. Such Qualified Law brings some important new features, including the prior verification of the admissibility of the

referendum question by the Guarantors' Panel on the Constitutionality of Rules before the collection of signatures of a number of voters representing at least 1.5% of the electorate. It also provides that the referendum proposal is approved if it obtains the majority of votes validly cast and, in any event, not less than 25% of the votes of the voters on the electoral rolls. The quorum was thus lowered from 32% to 25%.

## **J. Right to social security**

86. By accepting the recommendations of the European Commission against Racism and Intolerance of the Council of Europe (ECRI), the Draft Law "Rules defining those entitled to health care and provisions for the application of capitation fees" was submitted. It establishes a new regulatory regime for capitation fees, taking into account the changed economic situation of San Marino without placing a burden on foreign nationals who have lost their jobs.

**Recommendation 71.10:** To update the legislation aimed at the training of persons who deal with children, the elderly, ill persons and disabled persons.

87. In 2014, on the occasion of the organizational and structural adjustment of the residential centre for people with disabilities "Colore del Grano", the Authority for Authorisation, Accreditation and Quality of Health, Social-Health and Social-Educational Services, which grants authorisation to health-care and social-health facilities, requested specific professional requirements for operators who must integrate in the aforesaid facility patients with multiple disabilities.

88. During 2014, in the context of the general review of the staffing levels of all the personnel of San Marino Public Administration, the Authority has defined the staffing levels of the health care and social-health personnel of the Social Security Institute, providing for specific training requirements for those who deal with children, the elderly, ill persons and disabled persons. Staffing levels have been approved by Delegated Decree no. 102 of 1 July 2014.

89. The Annual Training Plans (ATP) of the Social Security Institute envisage qualified training opportunities for the staff dealing with ill persons, people with disabilities, the elderly and children.

90. In 2014 a Framework Cooperation Agreement was signed between the Authority and the Italian Agency for regional health services (Agenas) for the establishment of cooperation in training activities, also covering continuing medical education and institutional accreditation.

91. In 2012, the Training Department of San Marino University organised a higher education course on "The Convention on the Rights of Persons with Disabilities and the classification of functioning, disability and health (ICF)", addressed to teachers, social-health operators and interested citizens.

## **K. Right to work**

92. In recent years, employment has recorded a negative trend in the territory of San Marino: the unemployment rate increased from 1.59% in 2006 to 19.46% in 2012 and 12.09% in 2013.

93. In light of the continuing severe employment crisis and of the consequent and steady increase in the use of the social safety nets already envisaged by San Marino legislation, in recent years the Republic of San Marino has approved and implemented a number of

legislative measures relating to employment. Priority has been given to the strengthening of social safety nets to protect those who, as a result of job loss or failure to enter the labour market, do not benefit from other forms of income support, with particular attention to the most vulnerable categories.

94. Given the increase in the unemployment rate, the Ministry of Labour intervened with Decree Law no. 130 of 9 August 2011 “Urgent measures for the streamlining and efficiency of the labour market”. The measure concerns and impacts on some fundamental aspects of the sector by identifying mechanisms and benefits to support the employment of those who have been involved in collective redundancy procedures or have been fired after expiry of the employment contract. It also favours the recruitment of employees on a permanent contract through benefits and incentives to businesses, and supports the weakest groups of the population (young people, single-parent families with dependent children, over fifty out of work). Moreover, it introduces correction and protections rules for the appropriate use of the system of social safety nets and establishes tighter rules to combat undeclared work. Furthermore, an additional temporary intervention, expiring on 30 June 2015, is being designed in response to the continuing employment crisis.

95. Law no. 73 of 31 March 2010 “Reform of social safety nets and new economic measures for employment and employability” reformed and updated employment benefits by establishing the following new measures:

- Wage supplementation fund: an economic benefit charged to the Social Safety Nets Fund, designed to partially replace the income of dependent workers whose employment relationship has been suspended or working time has been reduced due to force majeure, temporary market conditions entailing contraction or suspension of the activity, as well as due to professional requalification, productive reconversion and organisational restructuring;
- Special economic benefit for mobility: an economic benefit replacing the income of employees on open-ended contracts and of members of production or worker cooperatives who have been laid off because of redundancy plans or termination of the activity of the employer;
- Unemployment benefit: an economic benefit intended to replace or to supplement the income of dependent workers on a fixed-term contract, as well as of any person having already benefited from the Special Economic Benefit, who are involuntary unemployed.

96. The 2014 primary objective of the Ministry of Labour has been to support employment, paying special attention to the activities to counter illegal and undeclared work. As regards this last aspect, Congress of State Decision no. 24 of 23 September 2013 established a Working Group for the implementation of the reform of inspection services, designed to establish the inspection process, i.e. the tasks, powers and timing of the inspection activity, also with the possibility of more inspections and the consequent unification of the inspection services (Labour Inspectorate – Labour Office, Inspectorate Office – Administration of the Social Security Institute and the Inspection Service – Department of Prevention of the Social Security Institute) in a single inspectorate managed by the Labour Office, also with the aim of streamlining human resources and ensuring more effective prevention and control.

97. Recent Law no. 71 of 29 April 2014 “System for the granting of employment and training incentives and types of training contracts” put in place the intervention of simplification and rationalization of the system of incentives for the recruitment of workers, with the aim of providing tools and employment opportunities to broader categories of persons through the provision of incentives for the recruitment of categories of workers finding difficulties in entering or re-entering the labour market (young people, laid-off

workers, long-term unemployed, over fifty) through training programmes to acquire specific skills and by broadening the range of protections. Therefore, the rationalisation of benefits and relief for businesses hiring workers who receive social safety nets were aimed at an appropriate use of these tools by businesses and workers, in order to discourage abuse and ensure balance in the management of the Social Safety Nets Fund.

98. The “anti-crisis” measures adopted so far further strengthen income support measures, as well as the return of unemployed and suspended workers to the labour market.

99. The Draft Law “Regulation on occasional and ancillary work”, which introduces working vouchers as a simplification tool, thus repealing rules on occasional and short-term work, was approved in first reading in May 2014 and in June 2014 by the Permanent Parliamentary Commission. It will be submitted to the Great and General Council as soon as possible.

100. A mechanism was introduced, on a temporary basis, for the provision of early retirement benefits to facilitate the entry of young people into the labour market. The intervention, indeed, following an agreement between the parties concerned and thanks to the solidarity among workers, has facilitated the choice in collective redundancy procedures, favouring the stay of younger workers in the companies concerned and allowing workers older than 55 years to go to pension.

## **L. Right to an adequate standard of living**

101. Life expectancy in San Marino is very high: 81.7 years for men and 86.4 years for women. The birth rate is 9.88 births per 1000 inhabitants, while the mortality rate is 7.62 deaths per 1000 inhabitants (as of 2013).

102. In our country, the problem of hunger and malnutrition can be considered completely overcome, but the international economic crisis that also hit San Marino caused unemployment and consequent difficulties in families affected by such crisis. In addition to the family support measures already envisaged in San Marino system, Delegated Decree no. 104 was approved on 4 July 2014 to support families in difficulty. Said Delegated Decree envisages, on an exceptional basis, the suspension of the payment of the principal amount of mortgages and /or finance lease instalments for the purchase of the first home for a period of 12 months.

## **M. Right to education**

*Recommendation 70.3:* To further develop a national strategy, with the full participation of all relevant stakeholders, for the integration of human rights into educational policies, curricula, textbooks and the training of teachers.

103. Schools pay particular attention to the issue of human rights, which is a subject matter studied in all grade levels and schools of the Republic of San Marino, as established by school curricula and in accordance with Law no. 57 of 15 March 2006. Therefore, human rights education is a central part of teaching. The educational offer plans include, both in school curricula and through specific projects, activities focused on human rights in order to promote behaviours based on the respect for individual dignity, in accordance with Law of 12 February 1998 “Purposes of schooling and right to education”. Article 1 of said Law reads as follows: “The right to education and the right to training of any individual are implemented in school without any discrimination, ensuring that individual freedom and dignity are respected, through the transmission of knowledge, the progressive discovery of reality, the development of a critical method, research and exchange of views, study

experience and forms of civil and democratic coexistence". Given the interdisciplinary nature of human rights, such issue is not included in the curriculum of a single subject, but there are always a number of disciplines and teachers concerned and involved in such matter. Human rights are often included in complex educational units implemented in the form of educational projects.

104. In-service training of teachers, which is mandatory by law in San Marino, provides for specific programmes related to human rights issues. In particular, after the approval of Law no. 97 of 20 June 2008 on the "Prevention and elimination of violence against women and gender violence", specific refresher courses were activated for all teachers of any level with regard to the human rights of women, children and vulnerable groups.

105. Moreover, research-permanent action groups have been established in each school and they will considerably contribute to the dissemination of good practices and the enhancement of human rights education. In some periods of the year, especially in the pre-Christmas period, San Marino basic schools (nursery, elementary and middle schools) implement educational projects on human rights. Specific operational guidelines for the monitoring of these educational projects are laid down by the Education Coordinating Board, composed of all school directors and the Director of the Department of Education.

106. In general, San Marino does not produce its own textbooks but it uses the textbooks of the neighbouring Italian Republic.

## V. Consultation with civil society

*Recommendation 70.11:* To continue cooperation with civil society organizations in the follow-up to the universal periodic review.

107. During the preparation of the national report, the Ministry of Foreign Affairs sent to all San Marino non-governmental organizations, through the Board of the Cultural Associations and Cooperatives and in some cases directly, the previous report, the list of recommendations accepted and rejected during the first Universal Periodic Review and information material, asking them to make comments and observations.

108. Only a San Marino association responded, urging the Government to consider adopting a number of measures in favour of disabled people and children. Among the measures suggested worth mentioning are:

- to adopt a law implementing the Convention on Persons with Disabilities, which provides for penalties for employers who do not comply with the obligation to hire a person with a disability every 20 employees (under Law no. 71 of 29 May 1991);
- to adopt a multi-year action plan for the elimination of existing architectural barriers and to ensure contributions, incentives, benefits, including tax incentives, to eliminate architectural barriers in private buildings used by people with disabilities;
- to provide for paid parental leaves, in addition to those envisaged by Article 1 of Law no. 43 of 31 March 2014, up to a maximum of two years, which may also be used on an ongoing basis, to assist family members with disabilities in proven severe situations or in the presence of serious diseases, including temporary diseases;
- to introduce within the school system the position of teacher specialized in learning support, with specific training to ensure the full inclusion of the student with disabilities and to ensure education and teaching continuity;

- to involve parents in the elaboration of the individualised education programmes for students and to annually review the programme to assess actual improvements and to propose checks and corrections;
- to activate a specialized section of the Court focusing on children and family, with specific training of judges, while enhancing the use and professional skills of the competent social services. To adopt specific procedural rules with regard to juvenile criminal cases and to tighten the rules on the application of penalties to those committing child abuse.

## **VI. Concluding observations**

109. The institutions and the population of the Republic of San Marino are aware of the paramount importance of the promotion and protection of human rights. The commitment of the Government and the Parliament to the ongoing adjustment of domestic legislation to international standards and the needs of society goes hand in hand with the commitment of the Public Administration and the Judicial Authority in favour of the application of and compliance with national laws and international treaties. The control performed by civil society, as well as the encouragement it provides and its critical attitude are fundamental. Equal importance is attached to the information and promotion tasks performed by mass media.

110. The commitment to human rights is permanent and no result can be definitely taken for granted. In this perspective, the examination of the situation of human rights by the Human Rights Council not only will be an assessment to which San Marino is subject but, above all, it will be a stimulus for the future.

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