

Council of Europe contribution for the 20th UPR session regarding San Marino

Prevention of torture

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to San Marino from 29 January to 1 February 2013.

During the visit, the delegation followed up the recommendations made by the CPT after previous visits. In this context, a particular attention was paid to conditions of detention at San Marino Prison, safeguards offered to persons detained by law enforcement agencies as well as to psychiatric patients subject to "obligatory medical treatment" (TSO). The delegation also visited two homes for the elderly.

The Government of San Marino has not yet authorised the publication of the report on the CPT's visit in 2013.

Fighting corruption

On 28 February 2012, the Council of Europe's Group of States against Corruption (GRECO) released its first evaluation report on San Marino highlighting that the country is still at an early stage in the fight against corruption and needs to pay greater attention to integrity and transparency in the public sector. The report is attached below.

While substantial steps have been taken in recent years to combat money laundering and terrorist financing, San Marino, which joined GRECO in 2010, has yet to strengthen its anticorruption instruments.

GRECO advises San Marino to increase the specialisation of law enforcement authorities in the investigation of corruption offences; to develop tools to prevent conflicts of interest; to provide for whistleblower protection; and to strengthen control mechanisms in public administration. In the private sector, accountants, auditors and legal professionals should become more actively involved in detecting and revealing this type of crime.

San Marino has not yet ratified any of the Council of Europe anticorruption standards: the Criminal Law Convention on Corruption, its Additional Protocol or the Civil Law Convention on Corruption.



GrecoEval1-2(2011)2
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Execution of judgments and decisions of the European Court of Human Rights

At 31 December 2013, there were 2 cases pending before the Committee of Ministers for supervision of their execution against San Marino (see attached below). These 2 cases are "leading cases", i.e. raising a new structural/general problem and requiring the adoption of general measures. For more details see document attached.



Contributions San
Marino.docx

Fight against racism and intolerance

On 9 July 2013, the European Commission against Racism and Intolerance (ECRI) published its fourth report on San Marino.¹ ECRI's Chair, Ms Eva Smith, said that, while there are positive developments, some issues of concern remain, including the legislation on citizenship and the absence of a comprehensive civil and administrative legal framework aimed at combating racial discrimination in all fields of life.

Society in San Marino continues to believe in dialogue and tolerance. The Criminal Code contains new provisions against discrimination based on race, ethnic origin, religion and sexual orientation. The system of residence and "stay permits" has been reviewed extending the maximum length of "stay permits" for foreign workers.

However, citizenship continues to be granted only by means of extraordinary laws, which each time may provide for different requirements to fulfil, procedure to follow and deadline to respect; the fact of compulsorily interrupting one month per year the work contract of private carers is particularly disadvantageous for this category of foreign workers; San Marino still lacks an independent body to combat racism, xenophobia, antisemitism and intolerance at national level.

The report contains findings and recommendations regarding the following issues:

- Existence and application of legal provisions²
- Discrimination in various fields, including employment, education and health³
- Racist violence⁴
- Climate of opinion and media⁵
- Vulnerable groups, including citizens of San Marino from Argentina, non-nationals, female migrant workers from central and eastern Europe, refugees and asylum seekers⁶
- Monitoring of racism and racial discrimination⁷
- Education and awareness-raising⁸

The following two recommendations were selected for priority implementation to be revisited two years later:

- To establish an independent body specialised in combating racism and racial discrimination;
- To revise the legislation on stay and work permits for foreigner private carers so as to reduce their precariousness of employment.

ECRI's report on San Marino, which includes Government observations, is attached below.



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¹ A summary of the report can be found on pp. 7 - 8.

² paras. 1 - 49.

³ paras. 50 - 76.

⁴ para. 77.

⁵ paras. 78 - 88.

⁶ paras. 89 - 117.

⁷ paras. 118 - 125.

⁸ paras. 126 - 134.

Protection of minorities

Protection of national minorities

On 14 April 2010, the Council of Europe's Committee of Ministers adopted a resolution on the protection of national minorities in San Marino (attached below). The resolution contains conclusions and recommendations, highlighting positive developments⁹ but also mentioning issues of concern¹⁰. Moreover, it mentions a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I¹¹ and II¹² of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention.

Recommendations:

- to continue efforts to heighten public awareness of the importance of tolerance and intercultural dialogue, and pursue measures to promote and facilitate integration of immigrants;
- to pay particular attention to the full and effective implementation of the Law No. 66 on "Provisions against Racial, Ethnic, Religious and Sexual Discrimination" and set up an independent institution to monitor racism and discrimination.

The Committee of Ministers' resolution is largely based on the corresponding third Opinion of the Advisory Committee on the Framework Convention on San Marino¹³. The concluding remarks, contained in Section III¹⁴, serve as the basis for the Committee of Ministers' Resolution. The Opinion of the Advisory Committee is also attached below.



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European Charter for Regional or Minority Languages

San Marino has neither signed nor ratified the European Charter for Regional or Minority Languages. Thus, the country is not yet covered by the monitoring carried out by the Committee of Independent Experts under the Charter.

Action against trafficking in human beings

A delegation of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) carried out a visit to San Marino from 4 to 6 December 2013. GRETA's final report on the implementation of the Convention by San Marino will not be available before early autumn 2014.

Preventing and combating violence against women and domestic violence

San Marino has not yet signed or ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. For this reason, it is not yet concerned by the monitoring procedure under the Convention.

⁹ Part 1.a) of the resolution

¹⁰ Part 1.b) of the resolution.

¹¹ paras. 1 - 10 of the third Opinion of the Advisory Committee on the Framework Convention on San Marino.

¹² paras. 11 - 22 *ibid*

¹³ A summary of the report can be found on p. 1.

¹⁴ paras. 23 - 27.

Social and economic rights

San Marino signed the Revised European Social Charter on 18 October 2001 but has not yet ratified it. Therefore the country is not covered by the monitoring procedure carried out by the European Committee of Social Rights.