

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 34th Session

SAN MARINO

I. BACKGROUND INFORMATION

San Marino is not party to either the *1951 Convention relating to the Status of Refugees* or its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). San Marino has not ratified the *1954 Convention relating to the Status of Stateless Persons* or the *1961 Convention on the Reduction of Statelessness* (the *1954 Convention* and the *1961 Convention* respectively).

II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol

Linked to 2nd cycle UPR recommendation no. 80.7 “Take all necessary steps to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol” (Brazil); and **recommendation no. 80.8:** “Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol” (Italy)

UNHCR wishes to note that accession to the *1951 Convention*, and establishment of a national legal and institutional framework would lay the ground for the Government of San Marino to provide refugees with international protection. It would also be a key step in line with the recently adopted Global Compact on Refugees, which San Marino supported.

Accession to the *1951 Convention* would allow San Marino to fully comply with its obligations under international human rights treaties to which it is a party, including the *Convention against Torture* (especially Article 3 regarding non-refoulement); the *Convention on the Elimination of All Forms of Discrimination against Women*; and the *Convention on the Rights of the Child* (especially Article 22 regarding refugee children). For example, a national asylum procedure could help ensure that gender-related claims are properly considered¹ and that a child-sensitive interpretation of the refugee definition is applied.²

¹ UN High Commissioner for Refugees, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, available at: <http://www.unhcr.org/refworld/docid/3d36f1c64.html>.

² UN High Commissioner for Refugees (UNHCR), *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the*

Recommendations:

UNHCR recommends that the Government of San Marino:

- (a) Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*; and
- (b) Establish a refugee status determination procedure that is gender and age-sensitive.

Additional protection challenges**Issue 2: Accession to the Statelessness Conventions**

San Marino is neither a State party to the *1954 Convention relating to the Status of Stateless Persons*, nor to the *1961 Convention on the Reduction of Statelessness*.

The *1954 Convention* and the *1961 Convention* are key international treaties designed to ensure that every person enjoys the right to a nationality and that stateless people enjoy a basic set of human rights. The *Statelessness Conventions* do not stand alone, but complement a much broader range of international legal standards, in particular those contained in human rights treaties to which San Marino is a party.

The *1954 Convention* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. The *1954 Convention* also guarantees stateless persons the right to identity and travel documents and to administrative assistance.

The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality.

An increase in the number of State parties to these two Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights. It is also a key element of the Global Action Plan to End Statelessness (2014 – 2024).³

Recommendations:

UNHCR recommends that the Government of San Marino:

- (a) Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.

UNHCR
March 2019

Status of Refugees, 22 December 2009, HCR/GIP/09/08, available at: <http://www.refworld.org/docid/4b2f4f6d2.html>.

³ UN High Commissioner for Refugees (UNHCR), *Global Action Plan to End Statelessness*, 4 November 2014, available at: <https://www.refworld.org/docid/545b47d64.html>.

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

SAN MARINO

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations and UN Treaty Monitoring Bodies' Concluding Observations relating to issues of interest and persons of concern to UNHCR with regards to SAN MARINO.

I. Universal Periodic Review (Second Cycle – 2014)

| Recommendation ⁴ | Recommending State/s | Position ⁵ |
|--|--------------------------------|-----------------------|
| Refugees and asylum seekers | | |
| 80.7 Take all necessary steps to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; | Brazil | Noted |
| 80.8 Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; | Italy | Noted |
| 78.46 Consider social policies that facilitate the integration of migrants and asylum seekers; | Holy See | Supported |
| Migrants' rights | | |
| 78.27 Continue to ensure that women are given equitable access to the labour market and that measures introduced to address the problem of unemployment would not result in curtailment of the rights of migrant workers in San Marino; | Philippines | Supported |
| 78.28 Strengthen efforts to increase public awareness of the importance of tolerance and intercultural dialogue, and pursue measures to promote and facilitate the integration of migrants; | Brazil | Supported |
| 80.3 Adhere to the principles of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and positively consider ratifying it; | Mexico | Noted |
| 80.4 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; | Uruguay | Noted |
| 80.5 Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; | Ghana, Indonesia, Sierra Leone | Noted |
| Equality and non-discrimination | | |
| 78.25 Accelerate efforts to devise and implement anti-discrimination public awareness programmes, including in the health services sector, and intensify campaigns to encourage tolerance and interreligious and intercultural dialogue; | Philippines | Supported |
| 78.26 Eliminate the legal concept of "children born outside wedlock", as well as combat against all forms of discrimination, both legally and in practice; | Portugal | Supported |

⁴ All recommendations made to San Marino during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of San Marino" (24 December 2014), A/HRC/28/9, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/SMindex.aspx>.

⁵ San Marino's views and replies, in English, can be found in: *Addendum* (5 March 2015), A/HRC/28/9/Add.1, available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/SMindex.aspx>.

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| 78.29 Protect the rights of all individuals, regardless of sexual orientation, on an equal basis; | Canada | Supported |
| 78.39 Adopt appropriate legislation to guarantee the rights of disabled persons and provide them with the best care without discrimination; | Kuwait | Supported |
| 79.9 Strengthen the institutional and legal framework to counter all forms of discrimination based on considerations of race, ethnic origin, religion or colour; | Algeria | Supported |
| 79.11 Introduce appropriate administrative or legislative reforms to ensure equal protections for same-sex couples, including on matters of residency and inheritance; | Australia | Noted |
| 80.11 Ensure equal rights of lesbian, gay, bisexual and transgender people by legally recognizing same-sex marriage and civil partnerships; | United Kingdom | Noted |
| Prevention of torture and ill-treatment | | |
| 78.34 Promulgate laws which expressly prohibit all forms of corporal punishment of minors at home as well as in kindergartens, schools and other institutions caring for children; | Mexico | Supported |
| 78.35 Assign the necessary resources to complete the implementation of the Law on the Prevention of ill-treatment in the heart of the family and of the child, particularly in the field of the sensitizing and educating people on countering violence against children; | Spain | Supported |
| 80.2 Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; | Uruguay, France, Portugal | Noted |
| Violence against women and children | | |
| 78.31 Further strengthen existing mechanisms aimed at safeguarding the rights of women, especially with regard to protection against violence; | Sierra Leone | Supported |
| 78.32 Continue its measures in the prevention and repression of violence against women through effective implementation of the existing domestic legislation and awareness-raising campaigns and programmes; | Malaysia | Supported |
| 78.33 Continue its effort to combat domestic violence and promote gender equality; | Singapore | Supported |
| Freedom of expression | | |
| 79.12 Decriminalize defamation and place it under the Civil Code | Estonia | Noted |
| 79.15 Adopt measures to decriminalize defamation; | Ghana | Noted |
| Racism and xenophobia | | |
| 79.8 Formulate civil and administrative laws which complement the provisions of the criminal law and are directed towards combating A/HRC/28/9 17 discrimination on the basis of ethnicity, nationality or language, in the fields of employment and the public services in particular; | Mexico | Supported |
| 79.9 Strengthen the institutional and legal framework to counter all forms of discrimination based on considerations of race, ethnic origin, religion or colour; | Algeria | Supported |

II. Treaty Bodies

Human Rights Committee

Concluding Observations, (3 December 2015), [CCPR/C/SMR/CO/3](#)

B. Positive aspects

3. The Committee welcomes the legislative steps taken by the State party to protect human rights, including:

- (a) The adoption of the Framework Law (No. 28) of 10 March 2015 on assistance, social inclusion and the rights of persons with disabilities;
- (b) The adoption of Law No. 140 of 4 September 2014, which provides that children are entitled to protection and security and shall not be subject to corporal punishment or other treatment damaging their physical and psychological integrity;
- (c) The adoption of Law (No. 41) of 31 March 2014 on Extradition Provisions, which, inter alia, limits extradition if there is a reason to believe that the extradited person will be subjected to persecution or discrimination, or cruel, inhuman or degrading treatment, or if the offence for which extradition is requested is punishable by death penalty in the requesting country;
- (d) The adoption of Law (No. 35) of 30 March 2012 on extraordinary provisions on naturalization, to the extent that it changes the conditions for the acquisition of nationality for children, in accordance with the Committee's previous recommendation (see CCPR/C/SMR/CO/2, para. 9).

4. The Committee welcomes the ratification of, or accession to, the following international instruments by the State party:

- (a) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, on 4 August 2015;
- (b) The 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, on 26 September 2011.