

# San Marino

## Mid-term Implementation Assessment



Promoting and strengthening  
the Universal Periodic Review  
<http://www.upr-info.org>



## Introduction

### 1. Purpose of the follow-up programme

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 29 October 2012



## Follow-up Outcomes

### 1. Sources and results

All data are available at the following address:

[http://followup.upr-info.org/index/country/san\\_marino](http://followup.upr-info.org/index/country/san_marino)

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

2 stakeholders' reports were submitted for the UPR. 3 NGOs were contacted. The Permanent Mission to the UN was contacted. No domestic NHRI exists.

3 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

*IRI:* 10 recommendations are not implemented, 0 recommendation is partially implemented, and 0 recommendations is fully implemented. No answer was received for 57 out of 67 recommendations.



## 2. Feedbacks on recommendations

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# Justice

Recommendation n°1: *Abolish corporal punishment by law and in practice, by enacting specific national legislation prohibiting corporal punishment in all environments* (Recommended by Israel)

IRI: *not implemented*

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Recommendation n°8: *Adopt specific legislative measures to criminalize corporal punishment not only abuse in all settings, together with major awareness-raising campaigns to promote an overall culture of non-violence through education, dialogue and cooperation* (Recommended by Spain)

IRI: *not implemented*

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Recommendation n°33: *Explicitly prohibit corporal punishment, under any circumstances, for boys and girls* (Recommended by Chile)

IRI: *not implemented*

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Recommendation n°65: *Take further measures to ensure the freedom of children from all physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, in accordance with the Convention on the Rights of the Child, including by ensuring the full legal prohibition of all corporal punishment of children* (Recommended by Sweden)

IRI: *not implemented*

### GIEACPC response:

In accepting the recommendations to prohibit corporal punishment of children made during the initial UPR in 2010, the Government pledged to amend the Criminal Code to abolish all corporal punishment (A/HRC/14/9/Add.1, para. 13). However, there has been no law reform to date. Criminal law confirms the "power of correction or discipline" ("poteri di correzione o disciplina") and corporal punishment is lawful in the home and in alternative care settings.

# SOGI

Recommendation n°22: *Create and adopt all legislative and administrative measures necessary to ensure that all families, including those based on non-conventional family models, are treated equally under the law, particularly with regard to issues of residency and inheritance* (Recommended by Israel)

IRI: *not implemented*

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Recommendation n°45: *Put in place measures to protect members of non-conventional family models from discrimination in terms of employment, immigration, family-related social welfare and other public benefits* (Recommended by Netherlands)

IRI: *not implemented*

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Recommendation n°66: *Take further steps to ensure the equal protection of the rights of persons in non-traditional family models, such as unmarried partners, cohabitants and same-sex civil partners* (Recommended by Sweden)

IRI: *not implemented*

LGBTEC response:

No specific laws have been introduced to recognise same-sex relationships and to allow a residence permit to a same-sex foreign national. A petition was put forward for the latter protection in April 2012 and agreed by the Government, but no action has been taken to implement any legislative or administrative changes. This was due to criticism by the Church and the Government stated that the petition would be reviewed. There is still considerable action needed to cover the basic rights of same-sex couples as well as residency and inheritance.

Recommendation n°23: *Ensure that all members of society, including members of sexual minority groups, have access to equal rights and are afforded the same level of protection, through adequate legislation and awareness-raising and training programmes, especially with regard to integration* (Recommended by United Kingdom)

IRI: *not implemented*

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Recommendation n°41: *Introduce educational or training programmes that promote the integration of sexual minorities with a view to preventing discrimination on the basis of sexuality* (Recommended by Netherlands)

IRI: *not implemented*

LGBTEC response:

No specific laws have been introduced or any activity carried out by the Government to raise awareness around sexual orientation and gender identity matters.

Recommendation n°32: *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* (Recommended by Czech Republic)

IRI: *not implemented*

LGBTEC response:

To date the Government has refused to include sexual orientation and gender identity in its Statute and across all legislation. The Yogyakarta principles are not known by authorities nor promoted.



## Methodology

### A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

### B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.





UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

### C. Implementation Recommendation Index (IRI)

*UPR Info* developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

### **Disclaimer**

*The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.*

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