

# **Advance Version**

Distr.: General  
21 February 2020

Original: English

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**Human Rights Council**  
**Forty-third session**  
24 February–20 March 2020  
Agenda item 6  
**Universal periodic review**

## **Report of the Working Group on the Universal Periodic Review\***

**San Marino**

**Addendum**

**Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review**

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\* The present document was not edited before being sent to the United Nations translation services.

1. The Republic of San Marino would like to thank the Member States and Observer Countries of the Human Rights Council for the interest shown in the Third Universal Periodic Review (UPR) of San Marino, held on 6 November 2019, and for the recommendations made during the review.
2. While adopting the report of the UPR Working Group on 8 November 2019, San Marino announced its intention to carefully consider all 109 recommendations submitted by the Member States and Observer Countries of the Human Rights Council and to provide its response before the 43rd session of the Human Rights Council.
3. After careful assessment and in consultation with the competent Ministries, the Republic of San Marino is pleased to provide the following responses.

## **San Marino's responses to the recommendations contained in paragraph 119 of the report of the Working Group on the Universal Periodic Review (A/HRC/43/9)**

### **A. Accepted recommendations**

4. The Republic of San Marino accepts the following recommendations: 119.10, 119.11, 119.16, 119.23, 119.24, 119.26, 119.27, 119.28, 119.29, 119.30, 119.31, 119.32, 119.33, 119.34, 119.36, 119.37, 119.38, 119.39, 119.40, 119.41, 119.42, 119.43, 119.44, 119.45, 119.46, 119.48, 119.49, 119.50, 119.53, 119.54, 119.55, 119.56, 119.59, 119.60, 119.61, 119.62, 119.63, 119.64, 119.65, 119.66, 119.67, 119.68, 119.72, 119.73, 119.74, 119.75, 119.76, 119.77, 119.78, 119.82, 119.83, 119.84, 119.85, 119.86, 119.87, 119.88, 119.89, 119.90, 119.91, 119.93, 119.94, 119.95, 119.97, 119.98, 119.99, 119.100, 119.102, 119.103, 119.104, 119.105, 119.107 and 119.109.

5. The Republic of San Marino also would like to provide information on some recommendations, which have been accepted and are considered to be already implemented.

**Recommendation 119.11:** the accession process to the Agreement on the Privileges and Immunities of the International Criminal Court is currently underway and will be brought to the examination of the Great and General Council (Parliament) for ratification at one of its forthcoming sittings.

**Recommendations 119.23 and 119.24:** the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) was ratified by San Marino on 18 January 2016 and, subsequently, the San Marino Parliament adopted Law no. 57 of 6 May 2016 to implement and adapt San Marino legislation to the provisions of the Convention.

**Recommendation 119.29:** San Marino has never presented candidates for membership of the UN Treaty-bodies, therefore the need to adopt a specific process when selecting national candidates has never arisen. We ensure that, in the event of applications to be submitted in the future, we will follow the most open, merit-based and transparent process possible, as we have already done when selecting candidates for other international bodies.

**Recommendations 119.33, 119.34, 119.36, 119.37, 119.38, 119.39, 119.40, 119.41, 119.42, 119.43, 119.44, 119.45 and 119.46:** over the next five years, all the necessary assessments and evaluations will be carried out with a view to establishing a National Human Rights Institution.

**Recommendation 119.82:** the extension of compulsory schooling to include the last year of pre-primary education, although not included into a legislative measure, is *de facto* in force in San Marino. The data for the last three years on the enrolment of children in the last year of pre-primary education confirm that more than 95% of children residing in San Marino attend kindergarten. In the remaining cases, the Directorate of Pre-primary School verifies with the families the reason for failure to enrol their children in the last year of

kindergarten. The verifications carried out in recent years have shown that in all cases the failure is due to the choice to attend, for family-related reasons, Italian kindergartens adjacent to San Marino. In the next few years, our legislative system will therefore be integrated with the provision of compulsory schooling from the last year of pre-primary education.

**Recommendations 119.88, 119.89, 119.90, 119.91, 119.93, 119.94, 119.95 and 119.97:** the San Marino legal system already contains measures to increase the representation of women in political life, such as the mandatory representation of at least 1/3 of women in electoral lists of political forces. After the last general elections, held on 8 December 2019, women participation in Parliament raised to 31.5%, compared to 26.3% of the previous legislature. In addition, one of the two Heads of State for the current six-month term and the Minister of Internal Affairs are women. With regard to public officials, women, also in managerial positions, hold most of these positions in San Marino.

**Recommendation 119.98 and 119.99 on raising the minimum age for military service:** with regard to the two recommendations on raising the minimum age of recruitment for military service to 18 years, while accepting them, it is important to provide a clarification. There are currently five military corps in San Marino: two are professional corps (the Gendarmerie and the Uniformed Unit of the Fortress Guard), while the remaining three are voluntary corps (the Artillery of the Fortress Guard, the Uniformed Militia and the Guard of the Great and General Council). The recruitment for military service has always been voluntary and from the age of 18, as provided for by the Special Regulations of each corps. Article 3 of the law regulating military corps states that “San Marino citizens are obliged to perform military service from the age of sixteen to the age of sixty”. This article must be read in combination with the provisions of Article 4, which governs general mobilisation in special circumstances. It should be noted that, even in the most critical phases of San Marino’s history, compulsory recruitment and general mobilisation of all citizens have never been used. Setting the age of sixteen for recruitment in the case of general mobilisation is a legacy of previous regulations, the amendment of which has been planned for some time. The delay in amending this provision is only because this measure is part of a more complex reform under way, which concerns the reorganisation of the military corps and their regulations.

**Recommendation 119.109:** we consider the recommendation already implemented since, following the presentation of the national report, Law no. 121 of 2 August 2019 was adopted, reducing the duration of residence required to request citizenship to 20 years, compared to the previous 25, and to 10 years for spouses of San Marino citizens, for persons living in a registered partnership with San Marino citizens and for children adopted by San Marino citizens through *adoptio semiplena*.

## B. Partially accepted recommendations

6. The Republic of San Marino partially accepts the following recommendation:

**Recommendation 119.101:** San Marino does not consider it necessary to create a specialized section on childhood within courts, since specialised judges within the Court already carry out this task. With regard to the establishing of a counseling center for separated parents with children, such possibility will be assessed carefully.

## C. Recommendations noted

7. The Republic of San Marino takes note of the following recommendations: 119.1, 119.2, 119.3, 119.4, 119.5, 119.6, 119.7, 119.8, 119.9, 119.12, 119.13, 119.14, 119.15, 119.17, 119.18, 119.19, 119.20, 119.21, 119.22, 119.25, 119.35, 119.47, 119.51, 119.52, 119.57, 119.58, 119.69, 119.70, 119.71, 119.79, 119.80, 119.81, 119.92, 119.96, 119.106, and 119.108.

8. The Republic of San Marino would like to provide some clarifications on the recommendations listed in the previous point.

**Recommendations 119.1, 119.2 and 119.8:** while recognising the importance and value of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, San Marino is at present unable to envisage a rapid accession to the protocol, since the obligation to set up a national independent prevention mechanism seems difficult to be fulfilled by the tiny San Marino context.

**Recommendations 119.3, 119.4, 119.5, 119.6:** we are not planning to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in a short time, because the provisions of the Convention do not appear to be easily applicable in San Marino, considering the specificities of the country and of its legal system.

**Recommendations 119.7 and 119.9:** there are no plans to ratify the International Convention for the Protection of All Persons from Enforced Disappearance in the near future, since most of the provisions contained in the Convention are not currently included in the San Marino legal system. Therefore, if the Convention were ratified, a substantial and comprehensive legislative framework would have to be approved to transpose most of the provisions of the Convention. For this reason and considering that in San Marino (61 square kilometres) police forces intensively monitor the territory, there have never been any cases of enforced disappearance; therefore, there are no plans to ratify the Convention. However, we undertake to carry out an in-depth study of the Convention with a view to transposing its provisions, to ratify it in the future.

**Recommendations 119.12, 119.13, 119.14, 119.17, 119.19 first part and 119.21:** accession to the Convention relating to the Status of Refugees and its Protocol would require the establishing of facilities and the training of staff which are not easy in a State which, on the basis of its treaty-relations with the surrounding Country - Italy - and with the European Union, does not have control over its borders.

**Recommendations 119.15, 119.18, 119.19 second part, 119.20 and 119.22:** at the moment we are not able to envisage a rapid accession to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, as important changes to the San Marino legal system would be necessary to provide for full compliance with the two Conventions. However, we are committed to carrying out an in-depth study of the two Conventions in order to assess our possible future accession to them.

**Recommendation 119.25:** the ratification of Convention No. 189 of the International Labor Organization on Domestic Workers will require a thorough assessment of its compliance with San Marino legal system and the adoption of rules adjusting it, which should involve several State Departments. Therefore, there are no plans to ratify it in a short time.

**Recommendation 119.35:** considering that the fight against discrimination is an issue already dealt with by the Commission for Equal Opportunities and that the establishment of a National Human Rights Institution will be considered, there are no plans to set up an independent body specialised in the fight against racism and racial discrimination.

**Recommendation 119.47:** we believe that San Marino's anti-discrimination legislation is well structured and what is requested is already an integral part of our Constitution. With regard to the steps to increase education and information to encourage diversity and inclusion, worth reiterating is that school curricula are very focussed on promoting inclusion of every type of diversity. Law 95/2018 gave more precise indications for school curricula in San Marino on themes related to discrimination. Law 97/2008 also provides that media shall protect equality and prohibits the use of images and expressions violating the dignity and identity of persons or having discriminatory content.

**Recommendations 119.51 and 119.58:** it is considered that there is no need to specifically include gender identity between the grounds for discrimination, since Article 4 of the "Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order" already provides for a comprehensive prohibition of unequal treatment or discrimination with the wording "All shall be equal before the law, without any distinction based on [...] personal status".

**Recommendations 119.52 and 119.57:** the legislation on registered partnerships has been recently enacted (Law. no. 147/2018) and a monitoring of its effects is underway, also in relation to possible future judicial decisions. With regard to access to adoption to same-sex couples, there has not yet been an in-depth debate on this subject.

**Recommendations 119.69, 119.70 and 119.71:** San Marino is committed to the fight against trafficking in human beings, following its accession to the Council of Europe Convention on Action against Trafficking in Human Beings, whose monitoring committee - the GRETA, Group of Experts on Action against Trafficking in Human Beings - has already carried out two visits to the Republic of San Marino. GRETA experts have been told that there is no cases known by the authorities, but that the annual training provided to social workers, social security and law enforcement agencies nevertheless covers the theme. The labour sector is also suitably monitored by the offices controlling such activities. Considering that until now no case of trafficking in human beings has occurred in San Marino, it is not considered that there is a need to adopt a specific regulatory framework on the subject; it is felt that it is preferable to devote all attention and resources to the administrative activity already undertaken to monitor the situation.

**Recommendations 119.79, 119.80 and 119.81:** we are currently not able to accept these recommendations, as the debate on the decriminalization of abortion is underway in our country, especially in the light of popular legislative initiatives having a diametrically opposed content. The parliamentary debate should take place in 2020.

**Recommendation 119.92 and 119.96:** without prejudice to our commitment to improve the conditions enabling a greater participation of women in political life and in decision-making positions, the recommendations drawn up in this way are not deemed acceptable. As a result of the elections of 8 December 2019, more women sit now in Parliament and the number of women present in Government has remained stable. The increase in the number of women in Parliament indicates however that a natural process is underway.

**Recommendation 119.106:** although San Marino's Government is willing to participate in humanitarian initiatives, as it happened in 2016 with its support for humanitarian corridors organised by the Community of Sant'Egidio, it is not in a position to commit to a permanent support to such projects. San Marino's participation in these initiatives will be assessed on a case-by-case basis.

**Recommendation 119.108:** we do not expect to introduce in San Marino legal system a procedure for the processing and adjudicating of asylum applications, since in recent years the applications submitted were very few. The permit we provide foreigners with when they, for various reasons, are not in a position to return to their country is the extraordinary stay permit for humanitarian reasons of social protection, issued by the Government following a case-by-case examination of the applications. This permit may be granted in case of special humanitarian needs and allows holders to benefit from health care and temporary economic benefits from the Social Security Institute.

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