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### Human Rights Council

Working Group on the Universal Periodic Review

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Geneva, 27 October – 7 November 2014

### Draft report of the Working Group on the Universal Periodic Review\*

### San Marino

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\* The annex to the present report is circulated as received

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## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its twentieth session from 27 October to 7 November 2014. The review of San Marino was held at the 6th meeting on 29 October 2014. The delegation of San Marino was headed by His Excellency Pasquale Valentini, Minister for Foreign Affairs. At its 10th meeting held on 31 October 2014, the Working Group adopted the report on San Marino.
2. On 15 January 2014, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of San Marino: Burkina Faso, Chile, China.
3. In accordance with paragraph 15 of the annex to resolution 5/1 and paragraph 5 of the annex to resolution 16/21, the following documents were issued for the review of San Marino:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/20/SMR/1);
  - (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/20/SMR/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/20/SMR/3).
4. A list of questions prepared in advance by Liechtenstein, Mexico, the Netherlands, Slovenia, Spain and the United Kingdom of Great Britain and Northern Ireland was transmitted to San Marino through the troika. These questions are available on the extranet of the UPR.

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. The delegation of the Republic of San Marino presented the report of the second cycle of the Universal Periodic Review on the human rights situation to the Working Group.
6. The delegation noted that last July they presented the National Report prepared by the Ministry of Foreign Affairs in collaboration with the Ministries of Interior, Health, Labour and Education and other government offices. They stated that within the National Report they outlined the steps they have taken to implement accepted recommendations made during the first review, noting that several provisions adopted in recent years were based on those recommendations.
7. The delegation explained the approach that the Republic of San Marino has always held towards the protection of human rights in the context of their Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order. The delegation stated that the Republic of San Marino was one of the few states that, in the field of human rights, did not need internal implementation rules, as international law was part and even predominant, in case of conflict with the national law.
8. The delegation highlighted the human rights conventions that have been ratified or adopted, which are the following: 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; on 21st July 2011 they signed the two Optional Protocols to the Convention on the Rights of the Child, on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography; on 23rd October 2013: San Marino acceded to the Convention on the Prevention and Punishment of the Crime of Genocide and then approved Law n. 138 of 5th September 2014 "Regulations on the Prevention and Punishment of the Crime of Genocide". In recent years San Marino has ratified 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 and Protocol no. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the European Charter of Local Self-Government. Finally 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 delegation stated that the ratification procedure was ongoing for both instruments.

9. Regarding the question of Liechtenstein, the delegation announced that, after having ratified on 21 July 2011 the amendment to Art. 8 of the Statute of the International Criminal Court, in the ongoing session of our Parliament the ratification process of the amendments to the Statute on the crime of aggression was expected to be completed.

10. The delegation also addressed the question of the Netherlands on the intentions of San Marino to ratify the Convention on Cybercrime and its Additional Protocol, and stated that a study on compliance with the Convention was completed though due to the necessary adjustment of domestic legislation, introduction of new technologies and specific training of the personnel involved, San Marino is unable to predict a time-frame for accession.

11. The delegation pointed out that progress had been made in the prevention of violence against women and gender violence, through the approval of Law no. 97 of 20 June 2008 "Prevention and elimination of violence against women and gender violence." This law introduced into the San Marino legal system the offences of gang violence, stalking, trafficking in human beings and has modified the offence of enslavement. The delegation also commented that this law established the Authority for Equal Opportunities as a mechanism for monitoring its implementation. The establishment of a dedicated Authority allowed the completion of the legislation on protection of Equal Opportunity. The delegation went on to say that the Authority has flanked the Commission for Equal Opportunities, which deals with issues related to awareness raising and promotion of legislative and non legislative measures to guarantee legal equality of citizens.

12. On 31 May 2012, the Decree implementing the above-mentioned law was adopted; such Decree has also established an assistance centre for victims of violence.

13. The delegation reported that coordination between the Health Authority and the Authority for Equal Opportunities was established in order to collect data on violence against women and gender violence in San Marino.

14. In addition, the delegation stated that a special study group was established in order to identify the amendments to be made and the requirements to be met in view of the ratification of the Council of Europe Convention on preventing and combating violence against women.

15. The delegation said the Parliament of the Republic of San Marino adopted a law introducing some amendments to the Criminal Code and the Law reforming family law, by introducing the prohibition of corporal punishment in the exercise of correction or discipline powers.

16. The delegation stated that Law no. 142 of 9 September 2014 "Legislation relating to specific developmental disorders in schools and training facilities" was approved. This law underlines the importance of the role of education for the development of social integration, as strongly reiterated at the Council of Europe Standing Conference of Ministers of Education, held in Helsinki on 26 and 27 April 2014 and the aim is to protect students with specific developmental disorders and special education needs.

17. In the national report, the delegation cited the work carried out by the Ministries of Education and of Health for the development of a Framework Law on disability. The proposed Framework Law fully incorporates the principles, definitions and content of the Convention on the Rights of Persons with Disabilities and includes some instruments fundamental to its implementation. The delegation stated that draft law provides for the establishment of a special commission tasked with monitoring the implementation of the principles contained in the Convention.

18. The delegation stated that, in response to GRECO (European Group of States against Corruption) recommendations, Law no. 141 of 5 September 2014 introduced the "Code of Conduct of Public Officials".

19. In reply to the question submitted by the Netherlands, the delegation stated that the recommendation made by the European Commission against Racism and Intolerance of the Council of Europe - ECRI on the San Marino Commission for Equal Opportunities was assessed by the Commission and it has transmitted its opinion. In light of this, the Government intends to work with the Commission to develop the necessary measures for the implementation of the recommendation.

20. In reply to the question submitted by the Delegation of Slovenia, concerning the measures adopted to improve the detention conditions at the prison in San Marino, the delegation stated that in recent years the procedures have been improved. According to the delegation, the Republic of San Marino acceded to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in December 1989. Since then, the CPT delegation visited San Marino four times: in March 1992, June 1999, February 2005 and January 2013, the delegation reported.

21. As for the second question of the delegation of Slovenia on raising the minimum age for military recruitment age to 18, the delegation stated that the establishment of the age of 16 for recruitment in case of general mobilisation is the legacy of previous regulations, which San Marino has long planned to change. The delegation explained that the delay in the amendment of this provision is due to the fact that this measure is part of a more complex ongoing reform concerning the reorganisation of the military corps and their regulations.

22. The delegation responded to the question from the Mexican delegation on the freedom of expression in electronic format and the sanctions for improper and legally actionable conduct in the field of publishing and freedom of the media. The delegation stated that the new law seeks to balance freedom of expression and the protection of the dignity, integrity and privacy of the individual. The delegation explained that under the new law certain modes of expression of information are regulated, by introducing a code of ethics for operators and an Authority performing an administrative monitoring on any abuses or distortions; moreover, the new law establishes and governs more flexible instruments for the protection of citizens and more accessible appeal procedures for individuals.

23. This law also specifically regulated the field of newspapers and on-line publications, by making them equal, in all aspects and effects, to paper publications, with the obvious differences related to the diversity of the means of expression.

## **B. Interactive dialogue and responses by the State under review**

24. During the interactive dialogue, 35 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

25. Kuwait commended efforts to promote and protect human rights, and welcomed the ratification of a number of international conventions and protocols since 2010, including the Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and on the Sale of Children, Child Prostitution and Child Pornography; the United Nations Convention against Transnational Organized Crime and its supplementary Protocols; and the Convention on the Prevention and Punishment of the Crime of Genocide. It noted commendable efforts made for the promotion of the rights of persons with disabilities and the accession to related conventions. Kuwait made a recommendation.

26. Malaysia noted the transparent and consultative approach taken by San Marino with regards to the UPR process and the progress made in the field of human rights through its commitment to implementing recommendations accepted during the first UPR cycle, and as well the introduction of various legislative and institutional measures. In particular, Malaysia commended San Marino for ongoing (continuous) steps to protect women's rights and promote their role in the country, and measures to further integrate persons with disabilities into society in line with its obligations under the Convention on the Rights of Persons with Disabilities amongst others. It noted the adoption of important laws and provisions relating to violence against women and enforcement of measures for their protection and expressed appreciation for San Marino's strong belief in the value of the family for human development and its efforts to protect the family institution and encouraged them to continue in this regard. Malaysia made recommendations.

27. Mexico welcomed the adoption of international instruments since the first UPR cycle. In particular, it noted the ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and the United Nations Convention against Transnational Organized Crime, together with the Protocols thereto. It recognized the advances made in combating domestic violence, notably through the implementation of prevention programmes and the provision of medical and psychological support for victims. It thanked San Marino for the response to its query regarding freedom of expression. Mexico made recommendations.

28. Monaco welcomed the advances made regarding the rights of persons with disabilities, notably steps to implement the Convention on the Rights of Persons with Disabilities, as well as the extension of the advantages granted under Law no. 43/2014 to adoptive and foster parents. Monaco requested further information on the functioning of the residential centre for persons with disabilities. It welcomed the ratification of the Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and on the Sale of Children, Child Prostitution and Child Pornography. Monaco made a recommendation.

29. Montenegro commended San Marino for its commitment to the promotion and protection of human rights, expressing appreciation of its efforts to abolish the death penalty and protect the rights of women and children. While welcoming San Marino's dedication to the UPR process, Montenegro observed that reports to several committees on the implementation of core human rights instruments were still overdue, and encouraged the Government of San Marino to put additional effort to improve cooperation with the treaty bodies system. It noted the requests made by the Human Rights Committee concerning the introduction of a juvenile criminal justice system and asked San Marino to elaborate on the activities taken in that regard. Montenegro made recommendations.

30. The Netherlands commended San Marino on its human rights record and efforts to ratify related instruments. In particular, it welcomed the ratification of 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, as well as the accession to the Convention on the Prevention and Punishment of the Crime of Genocide. However, it noted that the independent information and concluding observations of the treaty bodies were out of date as some country reports were still outstanding. The Netherlands made recommendations.

31. The Philippines recognized the strong commitment of the Government of San Marino to the overall development of the country and the fulfilment of human rights of its people and lauded San Marino's accession to a number of international human rights conventions in the period under review, particularly its ratification of the United Nations Convention against Transnational Organized Crime, its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Sea and Air. It asked how San Marino, as an advocate of women's rights, could contribute to the strengthening of regional and international cooperation or partnerships in combating trafficking in women and girls. It noted the remarkable progress achieved by San Marino in the realization of the right to an adequate standard of living and the provision of welfare programmes and other social safety net for citizens who became vulnerable as a result of the recent global financial instability. The Philippines made recommendations.

32. Portugal praised the commitment of San Marino to the implementation of the recommendations accepted during the first cycle and welcomed the ratification of 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. It noted that although San Marino had accepted a recommendation during the first UPR cycle to improve timely reporting, ten reports to the treaty bodies were still overdue. It welcomed the creation of a working group to prepare a draft law to adapt San Marino's legal terminology regarding the concepts of legitimate and natural children, and encouraged efforts in that regard. Portugal made recommendations.

33. Serbia congratulated San Marino for its dedication to human rights, democracy and rule of law and noted San Marino's efforts to align domestic legislation with international standards, as well as its pledge to comply with international treaties. It applauded San Marino's advocacy work to abolish the death penalty worldwide, and commended efforts to implement recommendations made by the European Committee for Prevention of Torture. It noted that constitutional and legislative norms and ratified international treaties on human rights guaranteed equality and freedom from discrimination, and encouraged San Marino to continue to positively promote the principle of equality and non-discrimination, taking into account all relevant recommendations of the European Commission against Racism and Intolerance. Serbia made a recommendation.

34. Sierra Leone commended San Marino's efforts to promote and protect human rights in spite of the international economic crisis which has impacted the strategies and the measures taken to address fair trial, the death penalty, violence against women and domestic violence. It was interested to note that San Marino had been the third country to abolish the death penalty. It appreciated efforts to align domestic legislation with international human rights instruments and commended measures to ensure freedom of religion or belief. It acknowledged San Marino's efforts to sign, ratify or accede to more human rights instruments since the first UPR cycle, but noted that further efforts were required to address racism, xenophobia and corruption. It lauded San Marino's financial contribution to the OHCHR in 2011 and 2013. Sierra Leone made recommendations.

35. Singapore commended the efforts taken by San Marino to combat domestic violence, noting the role played by the Authority for Equal Opportunities in enforcing the Law on Prevention and Elimination of Violence against Women and Gender Violence, implementing the related Decree (97) to assist victims of violence, and promoting public awareness on services available, including shelter for victims of domestic violence. A technical-institutional panel of experts had also been set up in 2012 to improve coordination among agencies in addressing domestic violence. Singapore noted efforts to build an inclusive society for persons with disabilities, including drafting of a Framework Law on Disability to strengthen implementation of the Convention on the Rights of Persons with Disabilities, and preparation of Decrees on specific policy themes such as elimination of architectural barriers, job placements, health and social inclusion. Singapore made recommendations.

36. Slovenia noted the implementation of the majority of recommendations accepted under the first UPR cycle, including ratification of 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. It noted progress made in the field of anti-discrimination and thanked San Marino for responding to its question on steps taken to improve detention conditions at San Marino prison. Following the Human Rights Committee request, it requested information on measures which could be taken to modify legislation (article 3 of Act No. 15 of 26 January 1990) regarding the exceptional circumstances in which all citizens aged 16-60 could be conscripted. Slovenia made a recommendation.

37. Spain welcomed the delegation of San Marino and thanked for its presentation and the replies to its advanced questions. It congratulated the country on the adoption of the Law on Provisions on Maltreatment within the Family and on Children by the Great and General Council. Spain noted the concerns expressed by the Human Rights Committee regarding the failure of San Marino to approve a new Code of Criminal Procedure. Spain made recommendations.

38. Thailand commended the efforts made by San Marino since its first review, particularly human rights awareness-raising initiatives and improvement of its normative framework in various areas aiming at better integration of foreigners and vulnerable groups. It expressed appreciation of progress in the protection of children's rights, particularly regarding ratification of the Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and on the Sale of Children, Child Prostitution and Child Pornography. It expressed interest in the recent examination of a draft law on provisions against child maltreatment in the family and looked forwards to its adoption. While noting steps already taken to better protect the rights of persons with disabilities, Thailand considered that further efforts could be made to promote independent living and better integration into society. Thailand made recommendations.

39. Ukraine noted the ratification since the last review of important international human rights mechanisms as well as the alignment of domestic legislation with relevant international standards. It appreciated the progress made to protect and promote the rights of its citizens, particularly regarding women's rights and gender equality. It recognized increased women's representation in the Parliament and encouraged further steps in empowering women to end the under-representation of women in the Government, particularly in ministerial positions. Ukraine welcomed efforts regarding freedom of expression, particularly the initiation of procedures on a new draft Law on Publishing and the Profession of Media Operators, expressing hope that it would be swiftly adopted and compliant with corresponding international standards.

40. The United Kingdom of Great Britain and Northern Ireland welcomed San Marino's firm commitment to the promotion and protection of human rights. It commended San

Marino for its ongoing efforts to reflect international human rights standards in domestic legislation. The United Kingdom of Great Britain and Northern Ireland made recommendations.

41. The United States of America commended San Marino's exemplary human rights record, longstanding commitment to democracy and the promotion and protection of human rights. While recognizing that labour standards were generally well enforced, it expressed concern that some employers did not consistently abide by safety regulations, including limitations on working hours and use of personal safety devices, particularly in the informal labour market. It noted that the Ministry for Territory and Environment had not fully implemented a law that mandated easier access to public buildings for persons with disabilities, and that many buildings remained inaccessible. It made recommendations.

42. Uruguay noted San Marino's ratification of OP-CRC-AC and OP-CRC-SC, and accession to regional human rights instruments. It noted the draft law to prohibit the corporal punishment of children in all settings, including at home and in day care, and hoped that it would be discussed fruitfully by the Parliament in order to meet San Marino's commitments pursuant to the first cycle of the UPR. It noted San Marino's efforts to comply with its international obligations, in particular regular reporting to treaty bodies. It encouraged San Marino to continue those efforts, and its cooperation with the OHCHR. It welcomed that San Marino was considering acceding to OP-ICESCR. Uruguay made recommendations.

43. The Bolivarian Republic of Venezuela emphasized San Marino's political commitment to implementing recommendations accepted during the first cycle of the UPR, despite the serious international economic crisis. It noted San Marino's adherence to international instruments, including the United Nations Convention against Transnational Organized Crime and its Protocols; the Convention on the Prevention and Punishment of the Crime of Genocide; OP-CRC-SC and OP-CRC-AC. It commended progress made in the legal sphere to promote equality of all people before the law and protect the population's rights and freedoms, and acknowledged the policies to protect women's rights and promote their participation in society through the adoption of important legal provisions and measures relating to protect women from violence. It made a recommendation.

44. Algeria congratulated San Marino on the ratification of the Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and on the Sale of Children, Child Prostitution and Child Pornography; as well as the adoption of legal provisions relating to violence against women and the promulgation of texts to improve the effectiveness of the legal system, particularly in the area of criminal law. It welcomed the measures taken to consolidate the protection of the family and its solidarity. Algeria made recommendations.

45. Argentina welcomed the delegation of San Marino. It congratulated San Marino for acceding to the Convention on the Prevention and Punishment of the Crime of Genocide. Argentina made recommendations.

46. Australia, commending San Marino's exemplary human rights record, noted that its human rights framework valued the integrity of the person, afforded a high degree of political participation and enforced civil liberties. Despite the fact that the Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order prohibited discrimination on all grounds, it was concerned that same-sex couples still encountered discrimination in some basic rights, including residency and inheritance. It commended efforts to protect the rights of persons with disabilities in many areas, particularly employment, education, health care and other state services. Australia made recommendations.

47. Brazil welcomed the ratification of OP-CRC-AC and OP-CRC-SC, and the Convention on the Prevention and Punishment of the Crime of Genocide; as well as the enactment of legislation on maltreatment within the family and on children. It was important to increase awareness of the importance of combating racism, racial discrimination and xenophobia, through the effective implementation of Law no. 66. on "Provision against racial, ethnic and religious discrimination". Noting that Decree no. 60/2012 established various forms of assistance to women who were victims of violence, Brazil asked what specific measures had been taken to prevent gender-based and domestic violence. Brazil made recommendations.

48. Burkina Faso noted San Marino's commitment to cooperate with the human rights mechanisms including its standing invitation to the special procedures. It welcomed efforts to abolish the death penalty; combat transnational organized crime; legalize the residence status of foreign nationals; and support workers who were victims of the economic crisis. It commended the ratification of various human rights instruments, notably OP-CRC-AC and OP-CRC-SC, and regional instruments; by acceding to instruments containing complaint mechanisms and enabling individuals to seek reparation. It welcomed the adoption of legislation to protect female victims of violence, including domestic violence, and actions in favour of children and persons with a disability. It encouraged the establishment of the National Observatory on the Family increased efforts to promote human rights in its educational system; and improved reporting to treaty bodies.

49. Canada asked San Marino to provide up-to-date information regarding steps to establish an independent ombudsman for the protection and promotion of human rights, in accordance with the Paris Principles. It noted that San Marino had ratified the Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and on the Sale of Children, Child Prostitution and Child Pornography, welcoming the contribution that made to protect the rights of children. Canada made recommendations.

50. Costa Rica thanked San Marino for the presentation of its national report and congratulated the progress made in the promotion and protection of human rights. It noted that San Marino had ratified several international instruments, and had been the first State Party to the Rome Statute of the International Criminal Court to ratify the amendment to Article 8 of that Statute. It welcomed the adoption of measures to prohibit the corporal punishment of children and those which had raised the minimum age of criminal responsibility. Costa Rica made recommendations.

51. Côte d'Ivoire said that the national report indicated the constant commitment of the Government of San Marino in the promotion and protection of human rights, through the adoption of various measures and policies for the promotion of equality for all, such as combating discrimination; protecting women, children, elderly persons and persons with a disability; combating domestic violence; and strengthening the judicial, political, social systems. Those measures demonstrated the importance San Marino placed on international obligations and on the protection of fundamental freedoms. It encouraged San Marino to continue cooperating with international human rights mechanisms. Côte d'Ivoire made recommendations.

52. Estonia noted San Marino's accession to most core international human rights instruments and its standing invitation to special procedures. It however raised concern by the lack of reporting to treaty bodies and hoped for positive steps in this regard. It commended the ratification of the Convention on the prevention and punishment of the crime of genocide; the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, the United Nations Convention on Transnational Organized Crime, and OP-CRC-SC and OP-CRC-AC; in which regard, it called on San Marino to review the law on extraordinary military conscription and withdraw the relevant clauses.

The protection of women's rights and their participation in society was a priority, and should continue. There was a need for a freedom of information law in accordance with international standards. Estonia made recommendations.

53. France welcomed the delegation from San Marino. It welcomed the commitment shown by San Marino in favour of human rights, and its accession to various international human rights instruments since its review under the first cycle of the UPR. France made recommendations.

54. Germany thanked San Marino for its national report and welcomed the progress made by the country since the first cycle of the UPR, for example regarding its human rights legislation. It commended San Marino's cooperation with civil society, the Office of the High Commissioner for Human Rights, special procedures, and United Nations treaty bodies. Germany made recommendations.

55. Ghana welcomed the delegation of San Marino and applauded the country's dedication to the Universal Periodic Review process. Ghana made recommendations.

56. The Holy See welcomed steps taken since the first cycle of the UPR to promote and protect human rights and to strengthen legislation and the administration of justice in line with international instruments. It commended the continued protection of the institution of the family as a union based on a stable relationship of a man and a woman, and the related legislation which extended the right of a parent to be absent from the workplace when the child was ill or to assist family members requiring special assistance, including due to disability or serious age-related disease. It made recommendations.

57. Indonesia applauded the priority given to protecting women's rights in national policy, and the adoption and effective implementation of Law no.97/2008 on the Prevention and Elimination of Violence against Women and Gender Violence. The establishment of a national human rights institution in line with the Paris Principles would further support San Marino's efforts to combat violence against women, as well as its efforts in other areas. Indonesia noted that San Marino had ratified several international human rights instruments. The ICRMW would be particularly relevant as one third of San Marino's population lived abroad. Indonesia made recommendations.

58. Ireland commended San Marino for extending a standing invitation to the special procedures of the Human Rights Council. However, it noted that a significant number of reports to treaty bodies were overdue. It welcomed San Marino's ratification of the Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and on the Sale of Children, Child Prostitution and Child Pornography. Ireland made recommendations.

59. Italy commended San Marino's commitment to cooperate with international human rights mechanisms, and for extending a standing invitation to special procedures. It noted the difficulties faced by San Marino in fulfilling its reporting obligations and measures taken to end the backlog. It encouraged San Marino to consider best practices, and expedite the drafting of reports under the ICCPR. It asked for information about the function, lessons learned and best practice of the panel created to coordinate measures to prevent and combat violence against women. It asked whether San Marino would consider establishing a formal procedure for processing asylum requests. Italy made a recommendation.

60. San Marino thanked all the delegations for their interesting and valuable recommendations.

61. As regards the treatment of asylum applications, the Minister informed that it was not foreseen to introduce a relevant procedure given the very low number of applications received in recent years, often submitted by persons from countries upholding high human

rights standards. Establishing a refugee status determination procedure would result problematic due to the lack of border control between Italy and San Marino.

62. In case of foreigners not able to return to their home countries, San Marino Government may grant an extraordinary stay permit for humanitarian and social protection reasons issued by the Government on a case by case basis. Beneficiaries would then be entitled to a temporary medical and financial assistance provided by the Social Welfare Institute.

63. With respect to questions related to discrimination, including based on sexual orientation and gender-identity, and on the need to protect single-parent and non-conventional families, all people were equal before the law and all forms of discrimination were rejected under the Declaration of Citizens' Rights. All sectors of the public administration were also abiding by this principle. Such prohibition was reinforced by Law no. 66/2008, which punished anyone inciting or committing any act of discrimination based on sexual orientation. The Law considered it an aggravating circumstance.

64. Despite the lack of a National Plan against discrimination, San Marino has participated in international campaigns and carried out national raising-awareness initiatives in this field.

65. Great importance has been attached to the role played by the Authority and the Commission for Equal Opportunities, which have jointly promoted actions encouraging the participation of all citizens in the political, social and economic life according to the principle of legal equality

66. In this regard, school played a major role. Respect for diversity was discussed and promoted in all school grades, thus favouring integration, learning about different cultures, understanding and tolerance. The fight against discrimination is a practical experience in school, which contributes effectively to inclusion. All children residing in San Marino, including on temporary basis, were provided with a free education. All children with a disability, including those with a severe disability, have access to education, including through the support of professionals and personalised didactical tools.

67. Regarding the question of single-parent and non-conventional families, in San Marino there has been a growing number of unmarried cohabiting couples. Also this category of persons is recognised and protected by San Marino family law. Indeed, children born from these relationships enjoy the same rights as those of children born in wedlock. In this regard, attention was also brought to single-parent families who, on account of their inherent characteristics, require stronger protection. Due consideration has also been given to single-parent families by allowing single people to adopt children.

68. A national debate encouraged by the civil society is going on about same-sex unions. The Parliament had recently addressed the issue and decided not to consider same-sex unions on an equal footing to traditional households. Cohabitation between persons of the same sex is recognised if they are entitled to live in the territory, but their rights and duties are regulated by private law.

69. As for human rights education, San Marino is committed to promoting human rights in education by implementing relevant projects, including training for teachers and involvement of families

70. Education on human rights, on the protection and respect for differences followed an interdisciplinary approach and was aimed to promote integration of values in all contexts to combat racism and intolerance.

71. To the question on the facility for persons with disabilities "Il Colore del Grano", it was explained that the centre hosts persons with various types of disabilities and contributes

to their education, rehabilitation and social inclusion by providing assistance, care and treatment including in support of their families.

72. With reference to international instruments, San Marino recognised the importance of treaties containing individual complaint mechanisms and is committed to addressing reporting delays and to acceding to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of the Child and to the UNESCO Convention against Discrimination in Education.

73. For the time being, San Marino did not intend to adhere to or to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the UN Convention against Torture, as well as the International Convention on the Protection of Migrant Workers and their Families and the Convention relating to the Status of Refugees

74. As regards the establishment of a national institution on human rights based on the Paris Principles, San Marino considered the existing complaint mechanisms to be adequate. Anyone may file a petition to San Marino Heads of State to complain about violations of human rights and other related issues.

75. On the question about juvenile crime, Law no. 140/2014 raised the age of juvenile jurisdiction to 14, with safeguards for children under 18 and alternative measures to detention under the Criminal Code.

76. The reform of the Criminal Procedure Code is a major priority. Government Decision no. 20/2013 entrusted a Technical Working Group with the drafting of a new code.

77. Finally, the Minister committed to giving due consideration to all recommendations to enhance human rights in San Marino.

## II. Conclusions and/or recommendations\*\*

78 **The recommendations formulated during the interactive dialogue and listed below have been examined by San Marino and enjoy the support of San Marino:**

78.1. **Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Montenegro, Spain);**

78.2. **Accede to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Uruguay);**

78.3. **Ratify the Optional Protocol to the ICESCR (Portugal);**

78.4. **Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt into the inquiry and inter-state mechanisms (Germany);**

78.5. **Accede to the Optional Protocol to the Convention on the Rights of the Child establishing a Communications Procedure (Monaco);**

78.6. **Ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (Montenegro);**

78.7. **Ratify the third Optional Protocol to the CRC, which establishes a complaint mechanism (Portugal);**

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Conclusions and recommendations will not be edited

- 78.8. Sign and ratify the third Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, without reservations (Ireland);
- 78.9. Consider becoming a party to other related human rights instruments such as the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (Thailand);
- 78.10. Ratify, without making any reservation, the Agreement on the Privileges and Immunities of the International Criminal Court (Germany);
- 78.11. Fully aligns its national legislation with the Rome Statute of the International Criminal Court, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (Netherlands);
- 78.12. Fully align its national legislation with the Rome Statute of the International Criminal Court, to ratify the Kampala Amendments to the Rome Statute on the crime of aggression and to accede to the Agreement on Privileges and Immunities of the Court (Estonia);
- 78.13. Incorporate into the national legislation measures to implement the Rome Statute of the International Criminal Court, including measures to cooperate with the Court (Costa Rica);
- 78.14. Ratify the UNESCO Convention against Discrimination in Education (1960) (Slovenia);
- 78.15. Consider ratifying the UNESCO Convention against Discrimination in Education (Ghana);
- 78.16. Intensify ongoing efforts to adjust domestic legislation to International Standards (Sierra Leone);
- 78.17. Pass the new criminal procedure code which is being studied by the technical working group (Spain);
- 78.18. Strengthen the cooperation with civil society on promoting non-discrimination and tolerance in society and consider instituting regular consultations with the CSO on improving the human rights protection system (Serbia);
- 78.19. Engage with civil society in the follow up to this review (United Kingdom of Great Britain and Northern Ireland);
- 78.20. Submit, as soon as possible, country reports to the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee against Torture and the Committee on the Rights of the Child (Netherlands);
- 78.21. Submit its ten overdue reports to the United Nations Treaty Bodies (Portugal);
- 78.22. Endeavour to submit its overdue reports, some of which have been overdue since 2003, to the treaty bodies on the application of the conventions it has ratified (Ghana);

- 78.23. **Submit its outstanding reports to the Treaty Bodies as soon as possible (Ireland);**
- 78.24. **Submit its national reports to the relevant UN treaty bodies (Sierra Leone);**
- 78.25. **Accelerate efforts to devise and implement anti-discrimination public awareness programs, including in the health services sector, and intensify campaigns to encourage tolerance and inter-religious and inter-cultural dialogue (Philippines);**
- 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);**
- 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);**
- 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);**
- 78.29. **Protect the rights of all individuals, regardless of sexual orientation, on an equal basis (Canada);**
- 78.30. **Ensure respect for minorities, especially sexual minorities (France);**
- 78.31. **Further strengthen existing mechanisms aimed at safeguarding the rights of women, especially with regard to protection against violence (Sierra Leone);**
- 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);**
- 78.33. **Continue its effort to combat domestic violence and promote gender equality (Singapore);**
- 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);**
- 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);**
- 78.36. **Continue the work already underway aimed at improving the judicial system, including the efforts to establish a new Code of Criminal Procedure (Holy See);**
- 78.37. **Continue to defend the institution of the family, based on the union of a man and a woman, and to keep providing assistance to those most vulnerable to human rights violations, particularly women, children, and the elderly (Holy See);**
- 78.38. **Continue strengthening the social programmes and plans which drive the fight against social exclusion and inequality, with emphasis on the areas of**

employment, food and health and paying special attention to the most vulnerable sectors (Venezuela (Bolivarian Republic of));

78.39. Adopt appropriate legislation to guarantee the rights of disabled persons and provide them with the best care without discrimination (Kuwait);

78.40. Adopt the Framework Law on disability which will incorporate the Convention on the Rights of Persons with Disabilities (Costa Rica);

78.41. Continue efforts in providing necessary care for persons with disabilities in line with its obligations under the CRPD (Malaysia);

78.42. Continue to enhance its domestic policies and laws to further develop an inclusive living environment for persons with disabilities (Singapore);

78.43. Continue to ensure inclusive education for children and persons with disabilities, as education would allow them to fully participate in the society and open the opportunity of employment (Thailand);

78.44. Bring all public buildings up to code so that they are accessible by persons with disabilities, in line with its international obligations and commitments (United States of America);

78.45. Take steps to improve access to buildings for people with a disability (Australia);

78.46. Consider social policies that facilitate the integration of migrants and asylum seekers (Holy See).

79. The following recommendations will be examined by San Marino which will provide responses in due time but no later than the 28<sup>th</sup> session of the Human Rights Council in March 2015:

79.1. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (Spain, Uruguay, Argentina, France);

79.2. Consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Ghana);

79.3. Ratify, without making any reservation, the International Convention for the Protection of All Persons from Enforced Disappearance, implement it into national law and recognize the competence of the Committee on Enforced Disappearances to receive and consider from or on behalf of victims or other states parties (Germany);

79.4. Consider ratifying the ICCPED (Sierra Leone);

79.5. Adhere to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, without making any reservation and implement the treaty into national law (Germany);

79.6. Consider developing Human Rights Indicators according to the OHCHR framework, as an instrument that would allow for a more precise and coherent evaluation of its national human rights policies (Portugal);

79.7. Strengthen measures to combat all forms of discrimination, focusing on sensitization and monitoring (Côte d'Ivoire);

79.8. Formulate civil and administrative laws which complement the provisions of the criminal law and are directed towards combatting discrimination on the basis of ethnicity, nationality or language, in the fields of employment and the public services in particular (Mexico);

- 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);
- 79.10. Elaborate and adopt a plan which promotes a greater and wider understanding of discrimination and intolerance and its various manifestations and also adopt administrative measures which allow the combatting of discrimination on the basis of ethnicity, nationality or language (Argentina);
- 79.11. Introduce appropriate administrative or legislative reforms to ensure equal protections for same-sex couples, including on matters of residency and inheritance (Australia);
- 79.12. Decriminalize defamation and place it under the Civil Code (Estonia);
- 79.13. Adopt measures enabling more women's political representation (Algeria);
- 79.14. Ensure domestic institutions protect, promote and monitor the rights of women and girls and strengthen equality between men and women by ensuring the full participation of women in policy and decision-making processes (Canada);
- 79.15. Adopt measures to decriminalize defamation (Ghana);
- 79.16. Adopt measures to ensure a fair representation of women in ministerial positions of the country (Ghana);
- 79.17. Actively monitor compliance and enforce employment safety regulations, especially in the construction and mechanical industries (United States of America).
80. The recommendations listed below have been noted by San Marino:
- 80.1. Proceed with the ratification of relevant international instruments not yet ratified and monitor implementation of instruments already ratified (Côte d'Ivoire);
- 80.2. Ratify the Optional Protocol to the Convention against Torture (Uruguay, France, Portugal);
- 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);
- 80.4. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Uruguay);
- 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);
- 80.6. Continue to evaluate the possibility of future accession to other international human rights conventions that it is not yet party to, such as the ICRMW and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Philippines);
- 80.7. Take all necessary steps to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (Brazil);

- 80.8. **Ratify the 1951 Convention on the Status of Refugees and its 1967 Protocol (Italy);**
- 80.9. **Establish a national human rights institution in accordance with the Paris Principles (Spain);**
- 80.10. **Consider the establishment of a national human rights institution in accordance with the Paris Principles (Indonesia);**
- 80.11. **Ensure equal rights of lesbian, gay, bisexual and transgender people by legally recognising same-sex marriage and civil partnerships (United Kingdom of Great Britain and Northern Ireland).**
81. **All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.**

## Annex

### Composition of the delegation

The delegation of San Marino was headed by His Excellency Pasquale Valentini, Minister of Foreign Affairs and composed of the following members:

- Ms. Federica BIGI, Director of Political and Diplomatic Affairs of the Department of Foreign Affairs;
  - Ms. Ilaria SALICIONI, First Secretary of the Directorate of Political and Diplomatic Affairs of the Department of Foreign Affairs;
  - Mr. Eros GASPERONI, First Secretary of the Directorate of European Affairs of the Department of Foreign Affairs;
  - Mr. Stefano PALMUCCI, Expert of the Directorate of Legal Affairs of the Department of Foreign Affairs;
  - Ms. Valentina BERTOZZI, Interpreter of the Department of Foreign Affairs;
  - Ms. Anita DEDIC, Administrative Assistant of the Permanent Mission of the Republic of San Marino to the United Nations in Geneva and other International Organizations in Switzerland.
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