

**REPUBLIC OF SAN MARINO**

*Check against delivery*

**HUMAN RIGHTS COUNCIL**

**34th Session of the UPR Working Group**

**San Marino Review**

**Opening Speech**

Geneva, 6 November 2019

President,

Excellencies,

Ladies and Gentlemen,

For the third time, the Republic of San Marino faces its "periodic review" before the Human Rights Council. The UPR represents a platform for constructive dialogue among States, International Organisations and Civil Society and is, therefore, a valuable opportunity to reflect on the levels of protection and promotion of human rights in each country. Prompted by this awareness, San Marino considers that the periodic review is extremely significant and extraordinarily useful.

Thanks to a discussion resulting from an in-depth and qualified study of the various situations, the UPR provides States with the opportunity to identify the gaps in the protection of human rights and to focus on areas for possible improvement and those sectors deserving further and more effective interventions, in order to implement better actions aimed at defending human rights and the rule of law.

As you can see, today our Delegation is not at ministerial level, as it was on previous occasions. Indeed, last 23 September, the Captains Regent of the Republic of San Marino - our Heads of State - issued a decree ordering the early dissolution of Parliament following the Government crisis and called for general elections to be held on 8 December.

Therefore, according to the law, the members of San Marino Government, until the elections, can only deal with ordinary administration and are precluded from making commitments or ensuring in any way the implementation of intentions or proposals on behalf of the Government, which will arise from the parliamentary majority of next legislature.

As a consequence, the task of San Marino Delegation present here today will be to take stock of the actions developed in our country in the field of human rights protection during the last few years and to carefully note the recommendations, suggestions and observations that will be submitted to us. We will report the results of this discussion to the Government that will be formed following the elections of 8 December; we are certain that next Government will pay the utmost attention and interest to what emerges today, in line with the attention and interest shown by the previous Governments towards the Human Rights Council.

President,

Today we proudly confirm San Marino’s deep respect for the Human Rights Council as a whole, as well as for the various States and other actors that compose it and contribute to making it one of the most incisive bodies of the UN system. Similarly, we recognise that the UPR is a vital mechanism for the functioning of the Human Rights Council.

The fundamental principles and the standards with which each State is called upon to align are the "cardinal points" indispensable for guiding the action of Governments. The protection of the dignity of all human beings and the sustainable development of our peoples lie in the universality, indivisibility and interdependence of human rights.

We strongly confirm the sensitivity and interest of San Marino society in the protection and promotion of the rights and freedoms of individuals.

If it is true, in San Marino as elsewhere, that the crisis affecting several economies of the Planet entails the risk that in our societies selfishness, indifference and fear of the other prevail, it is equally true, however, that civil society strongly commits to the defence of human rights, especially to protect the weakest groups of the population.

We are witnessing this also in our country, where the action of the Institutions is supported and stimulated by associations and groups of volunteers who, with dedication and responsibility, carry out projects, interventions and activities aimed at concrete initiatives and not at a theoretical affirmation of rights.

In addition to a constellation of small, sometimes very small, non-profit associations and organisations, which are now well established in San Marino, we would like to mention some significant initiatives that have taken place in recent times in our territory.

On 13 May 2018, the population joined together to march "against hatred and intolerance". This initiative was in addition to the statements made in the same days by the Heads of State - Their Excellencies the Captains Regent - who called for the involvement of schools of all levels to develop projects for the Council of Europe campaign "No Hate Speech", which San Marino Government joined without hesitation.

The numerous initiatives put in place by the volunteers of San Marino associations in the field of the rights of people with disabilities are also worth noting. Indeed, in addition to stimulating several legislative interventions during the last legislature, various campaigns were promoted with the aim of raising public awareness of the benefits of a society that is more inclusive and more attentive to disability.

Worth mentioning are two successful initiatives promoted in the current year: the campaign "Namasté - Adopt a wheelchair", promoted by the Association Attiva-Mente with the aim of raising funds to distribute devices for autonomy to the people most in need, and the theatre performance "Precious Towers" played by people with various kinds and degrees of disabilities, with the help of the Association ASDEI (San Marino Association of People with Infantile Onset Disabilities).

The introduction of the institute of "civil registered partnerships” also significantly testifies to the involvement of civil society in the democratic life of the country. Indeed, the "Law regulating civil registered partnerships", under which the legal system recognises equal dignity, rights and safeguards to civilly registered partners, both homosexual and heterosexual couples, compared to married ones, derives from a bill of popular initiative.

The involvement of civil society in the public life of the State lies in the "genetic code" of San Marino. This was already testified by the fact that both the process of drafting the 1974 Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order - the Constitution of the Republic of San Marino - and its 2002 revision were widely participated by the population. In both cases, the Technical Commissions set up to study the legislation relied on the opinions and suggestions requested and received from political groups, associations, trade unions and many private citizens.

If permeability between civil society and political representatives is, perhaps, intrinsic to a small country such as San Marino, one cannot underestimate, however, that this characteristic has influenced and continues to influence the democratic development of the country. Indeed, civil society continues to provide the Parliament and the Institutions with stimuli and demonstrations of a privileged attention to respect for human dignity through the promotion of equality, freedom, inclusion and solidarity.

President,

The country that we have the honour of representing here today has given the highest priority in its history to the defence of human rights and has constantly used all its resources to guarantee the best international standards, in the awareness that the small size of the State is not a justification for any shortcomings or backwardness.

There have certainly been and unfortunately continue to be shortcomings and backwardness. Indeed, we are aware of the delays in submitting various reports to the treaty bodies. In the same way, our Report highlights the difficulties encountered in implementing some of the recommendations of the second UPR round.

These negative data, although sometimes resulting from specific events and especially from the limited resources related to our small size, remain unjustifiable data for a country like San Marino, which has been able to demonstrate, throughout its history, that it can also be a virtuous State on the international scene in the defence and promotion of human rights.

Indeed, this privileged attention to human rights is witnessed by various "epochal” events: San Marino abolished the **death penalty** for the first time in 1848 and abolished it once for all in 1865, thus becoming the first country in Europe and the second in the world to take this step.

In line with this position, San Marino ratified the Second Optional Protocol to the Covenant on Civil and Political Rights on the Abolition of the Death Penalty and Protocol No. 6 to the European Convention on Human Rights aimed at abolishing the death penalty. Our country has always been among the co-sponsors of the General Assembly Resolutions on the moratorium on the use of the death penalty. As a more recent act, last September the Government joined the Alliance for Torture-Free Trade, with the signing of the Minister of Foreign Affairs on the margin of his participation in the last session of the General Assembly in New York.

San Marino has also been the first European State to ratify the Rome Statute and continues to pay great attention to the work of the **International Criminal Court**, although it does not have a diplomatic representation to such Court.

Among San Marino’s excellences is undoubtedly its health system, inaugurated as a social security system in 1955. Since then, it has always been completely public and free for all citizens, from their birth until their death, and it includes both health services - at the hospital and on the territory- and economic benefits in the event of illness of workers, family allowances, pharmaceutical assistance, social and health care, seniority pensions and lifelong benefits. Likewise, since 1963, public education has been a non-waivable and free right for all, from the age of 6 to 16: there have been no cases of children who have not received or completed primary and lower secondary education or who have not completed compulsory education until the age of sixteen.

Where our country has not been able to autonomously recognise and promote certain rights, bodies such as the Human Rights Council, and more specifically the UPR, have stimulated our Parliament and our institutions to fill the gaps.

Successful examples of the effectiveness of this mechanism are the numerous ratifications of international instruments following the recommendations of various countries, as well as the adoption of the Law against the corporal punishment of children.

The Republic of San Marino is, therefore, deeply aware of the value of dialogue and of the contribution of the review process that we are today undergoing. Like during the past Universal Periodic Review, we are confident that also this round will allow us to make necessary and important steps forward, strengthening the close connection between this process and the democratic development of San Marino.

President,

During the second Universal Periodic Review, held in October 2014, the Republic of San Marino received 74 recommendations from the Member States and Observers of the Human Rights Council: of these, 55 were accepted by San Marino and 19 were not accepted.

In the last 5 years all the recommendations have been examined by the competent Ministries and many of them have already been implemented in the San Marino system. The Ministry of Foreign Affairs has coordinated the implementation of the recommendations, urging their adoption on a regular basis and assessing their implementation. In the last year, the Ministry has carried out the preparatory work for the third National Report, with the support of all the other Ministries and numerous public administration offices.

In relation to the written questions that the Portuguese and Angolan Delegations submitted to us in advance, we point out that so far the size and characteristics of the public administration have not required to establish an ad-hoc mechanism for the implementation of the recommendations of the UPR or of other bodies. The Ministry of Foreign Affairs has so far coordinated the follow-up to the recommendations, working in collaboration with the other Ministries and Offices. However, we are open to any suggestions from the delegations in this field.

The third Universal Periodic Review of San Marino was advertised in the press and disclosed to associations operating on San Marino territory, providing information on how to contribute to the review. In this context, we would like to sincerely thank those who contributed to the review of San Marino by sending their suggestions and proposals for the improvement of the system for the protection of human rights in our country, which were included in the National Report.

Once finalised, the National Report was then submitted by the Minister of Foreign Affairs to the Parliamentary Commission for Foreign Affairs in August 2019.

The Report provides information on the implementation of the recommendations accepted in the last monitoring round and on developments in the field of human rights over the last 5 years.

Since October 2014, San Marino has acceded to or ratified a large number of **international instruments**, both in the field of human rights and in other areas.

Following the recommendations accepted during the second UPR round, San Marino acceded to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, to the Optional Protocol to the Convention on the Rights of the Child on a communication procedure and to the Amendments on the crime of aggression to the Rome Statute. Furthermore, two important instruments, accession to which was recommended to San Marino during the second round, are currently being ratified: the UNESCO Convention against Discrimination in the Field of Education and the Agreement on the Privileges and Immunities of the International Criminal Court. The two international instruments have already been submitted to the Parliamentary Commission for Foreign Affairs for examination and will be submitted to the Parliament next year for the final act of the ratification process.

In addition, in the regional context, always with regard to human rights, San Marino has recently ratified Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the Council of Europe Convention on the Prevention and Combating of Violence against Women and Domestic Violence, the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Council of Europe Convention on Cybercrime and its Additional Protocol concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems.

Finally, it is also worth mentioning that San Marino ratified other international instruments, such as the Arms Trade Treaty, the Paris Agreement, the Treaty on the Prohibition of Nuclear Weapons and Convention No. 183 of the International Labour Organization - Maternity Protection Convention, whose principles and provisions are intertwined with the protection of human rights.

President,

Following the second Universal Periodic Review and also thanks to the recommendations submitted to us, the Republic of San Marino has intervened incisively in the field of human rights protection, adopting significant legislative measures and implementing good practices for the protection of human rights.

First of all, it should be recalled that in San Marino legal system the Declaration on the Citizens’ Rights and Fundamental Principles of San Marino Constitutional Order (Law no. 59 of 8 July 1974 and subsequent amendments) is a Constitution to all intents and purposes. This is not the only thing. It is a so-called "rigid" Constitution, i.e. its amendment requires a qualified majority of Parliament. The Guarantors' Panel on the Constitutionality of Rules (Constitutional Court) verifies that new laws or those already in force, if challenged, comply with the Constitution.

Article 4 of the Declaration on the Citizens’ Rights recognises the principle of equality. Recently, a major constitutional amendment has been made to this Article, which has broadened the application of the principle of equality before the law and has explicitly excluded any distinctions based on sexual orientation. The proposed constitutional amendment was approved in a confirmatory referendum, requested by the Parliament and held on 2 June 2019, to which the population of San Marino responded with a percentage of 71.46% votes in favour of the proposed amendment. Article 4 now states that "All are equal before the law, without any distinction based on sex, sexual orientation, personal, economic, social, political and religious status.”

The constitutional amendment followed the introduction of a Law regulating **civil registered partnerships** (Law no. 147 of 20 November 2018), under which San Marino legal system recognises equal dignity, rights and safeguards to civilly registered partners, both homosexual and heterosexual couples, compared to married ones. Those who decide to register their partnership civilly, in accordance with the aforementioned Law and its implementing Regulation, acquire the same status as married couples in terms of residence and succession, cohabitation, mutual assistance, inheritance rights and other matters, whether the couple is of the same sex or of a different sex.

Major progress has been made in **combating violence against women and gender-based violence**: indeed, following the ratification of the Istanbul Convention of the Council of Europe, Law no. 57 of 6 May 2016 "Rules adjusting San Marino legal system to the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence" was approved. This Law introduced new criminal offences into San Marino legal system in the field of violence against women, gender-based and domestic violence. In particular, the offences of forced marriage, female genital mutilation and forced sterilisation were introduced in San Marino Criminal Code. The provision of the Criminal Code relating to family mistreatment has also been amended, introducing the offence of domestic violence; moreover, the provision relating to the prohibition of discrimination, hatred or violence has been supplemented, now punishing discrimination, violence or provocation linked to gender identity and sexual orientation.

Since 2008, the Authority for Equal Opportunities has been operating in San Marino with the task of receiving all reports of abuse or illicit conduct in the field of violence against women and gender-based violence. Furthermore, Delegated Decree no. 56 of 17 May 2018 has provided such Authority with the operational tools aimed at coordinating all stakeholders involved in the prevention and protection of victims of violence, and numerous initiatives have been launched to prevent and combat violence against women and gender-based violence.

Another significant step in the recognition of equal gender rights was introduced by Law no. 173 of 26 November 2015 "Equal transmission of the surname", which allows parents to choose together the surname to be given to the newborn: that of the father, of the mother or both in the order indicated by the parents.

We are proud to mention the progress made by our country in the last few years in protecting the **rights of persons with disabilities**.

On 10 March 2015, San Marino Parliament approved Law no. 28 "Framework law for the assistance, social inclusion and rights of persons with disabilities", with the following aims: ensuring full respect for human dignity and the rights of freedom of persons with disabilities; promoting inclusion in schools, at work and in society, by removing the conditions of exclusion that prevent the full development of the person; pursuing the functional and social recovery of those affected by physical, mental, sensory and intellectual problems, either temporary or permanent, as well as their legal protection, by prohibiting any direct and indirect discrimination and recognising the family the right to receive assistance and protection in supporting family members with disabilities.

The Law was fully implemented through a series of delegated decrees that have completed and supplemented its provisions, by introducing the institute of support administration, a more structured and efficient organisation of prevention, early diagnosis, treatment and rehabilitation of persons with disabilities, as well as arrangements for more adequate and functional access to services.

To help families with disabled persons or persons with serious diseases, parental leaves for a maximum total duration of 2 years, even divided into months, were introduced into San Marino legal system. San Marino has also regulated the possibility of “donating” holidays or days of paid leave to colleagues who have to assist persons with severe disabilities.

To ensure an inclusive education system at all levels and lifelong learning, Delegated Decree no. 105 of 1 July 2015 on the right to education, training and school inclusion of persons with disabilities was approved. This Delegated Decree includes provisions to ensure the full development of human potential, sense of dignity and self-esteem of persons with disabilities.

Law no. 142 of 9 September 2014 "Regulations on specific developmental disorders in school and training" formally recognised dyslexia, dysgraphia, dysorthography, dyscalculia, speech disorders, motor coordination and behavioural disorders as specific developmental disorders. These disorders may severely limit certain activities of daily life.

The legislation on the accessibility of buildings by persons with disabilities has recently been amended by Law no. 140 of 14 December 2017 "Consolidated Text of Town-planning and Building Laws", which provides for the removal of architectural barriers and commits the Ministry of Territory and Environment to preparing a census of the works, structures and buildings owned by the State.

Delegated Decree no. 21 of 24 February 2016 "Measures in favour of the elderly and dependent persons with disabilities who rely on continued assistance established the “assistance desk” at the Home Territorial Service. At this desk, the reception operator is available to provide information and support for the starting and completion of procedures related to continued assistance.

Law no. 28 of 10 March 2015 established San Marino Commission for the implementation of the UN Convention on the Rights of Persons with Disabilities (CSD ONU), with the task of promoting coordination of initiatives in different sectors of the public administration, the systematic collection of data and the implementation of studies and research activities.

In the first UPR round we committed to adopting comprehensive legislation on corporal punishment against minors and on 5 September 2014 we adopted Law no. 140, which supplemented and introduced more strict penalties for the crime of corporal punishment, in particular against minors, by amending both the Criminal Code and the legislation on family law, which is supplemented with the prohibition of corporal punishment within the context of the right to education of the child. The same Law also increased from 12 to 14 years the age of criminal liability of minors envisaged in the Criminal Code.

On 26 April 2017, the Parliament approved the law **reforming the prison system**, in order to comply with the recommendations of the European Committee for the Prevention of Torture. In particular, the Observation and Treatment Group was set up, with the task of proposing a tailored programme for each inmate, after obtaining judicial and prison, clinical, psychological and social data, and after conducting interviews with the inmate, also in order to stimulate critical review of the facts for which conviction intervened, the reasons and negative consequences of the crimes committed, as well as the remedial actions. In addition, work both inside and outside the prison was introduced, in order to allow a better rehabilitation after the detention and an easier reintegration into society.

To guarantee the **right to privacy**, San Marino has decided to transpose into domestic legislation the contents of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the processing of personal data. The Regulation was transposed into San Marino legal system, by accepting all the provisions therein and establishing the Data Protection Authority, which is already in place and fully operational.

In the framework of the **right to work**, incentives were introduced for the hiring of certain categories of workers, including women returning to work after the period of abstention provided for maternity or adoption and women enrolled in the unemployment lists of part-time jobs that are hired for a new job for less than 25 hours per week.

President,

San Marino pays particular attention to the teaching of human rights, which have always been a subject matter in schools of all levels. In particular, the aim is to provide young people, starting from kindergarten, education focused on sustainable lifestyle, human rights, gender equality, promotion of peace and non-violence, global citizenship and enhancement of diversity.

Moreover, since the 2018/2019 school year, the “Curriculum of education to citizenship” has been activated, introducing issues concerning citizenship, dialogue, respect for others and conflict management.

An important innovation in the school system concerns the introduction of the teaching of ethics, culture and society in primary school and in all higher levels, starting from the school year 2019-2020, as an alternative to the teaching of Catholic religion.

Another important innovation in the field of **the right to information** was the approval of Law no. 211 of 5 December 2014 "Law on publishing and the profession of media operators", which introduced a comprehensive discipline for media operators, at all levels, aimed at safeguarding the impartiality and correctness of information. The law also established the Supervisory Authority for Information, created a self-governing body for operators (the San Marino Information Board) with the task of protecting and controlling media operators, adopted a code of ethics for operators, introduced the position of professional journalist and established rules for publishers of newspapers, including on-line ones.

In the years following the introduction of this new measures, a number of problems have been encountered in the implementation of the new provisions, as highlighted in the report of the Commissioner for Human Rights of the Council of Europe, following his visit to San Marino in 2015, and as noted in the written question anticipated by the United Kingdom.

All the parties involved are well aware of these problems: Government, professionals and civil society. There have been several meetings to discuss the issue, thus proving the willingness to correct the most delicate elements and introduce appropriate amendments.

The convergence on the theme of the right to information and the importance of “healthy” information, without restrictions that could limit its freedom, is also demonstrated by the fruitful cooperation that took place in the organisation of the “High Level Conference on the Dangers of Misinformation”, which was held in San Marino on 10 May 2019 and was attended by distinguished speakers from the world of information, academia, civil society, and international organisations, with speeches by representatives of the Council of Europe and the Office of the OSCE Representative for Freedom of the Media.

This initiative was strongly supported and encouraged by the Ministry of Foreign Affairs and the Ministry responsible for Information, which have created a working group composed of officials of the public administration and representatives of the State Radio and Television Broadcasting Company, the Board for Information, the Supervisory Authority for Information and the University of San Marino, with the task of reflecting on this theme and implementing concrete actions to raise awareness among operators and the population of a proper use of the media.

The Conference has provided food for thought and projects aimed at raising awareness in favour of free and high-quality information. One of the initiatives conceived during this debate is the project involving the elementary, junior high school and secondary school of San Marino, which provides for the introduction of lessons on "media literacy" in the curricula of each level of compulsory schooling.

This and other initiatives taken by San Marino in the field of combating disinformation are being presented these days in Strasbourg by a delegation from San Marino attending the World Forum for Democracy, with the purpose of investigating the issue and shed light on a problem that, although not new, is made more topical than ever because of the exponential spread of social media in the last decade.

President,

now we leave the floor to the delegations, certain that we will receive valuable contributions and suggestions that will be fundamental to strengthen the protection and promotion of human rights in our country.

We will listen to the questions with great attention and will take note of all your recommendations, which we will submit to the new Government resulting from the elections of 8 December, so that we will be able to answer in time for the plenary session when the report on our 3rd Universal Periodical Review will be adopted.

Thank you.