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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**

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

1. A total of 56 recommendations were made during the Universal Periodic Review of San Marino in the Working Group on 11 February 2010. At the adoption of the report of the Working Group on 15 February 2010, San Marino announced that it could accept 11 out of the 56 recommendations without further consideration and it could not accept 13 out of the 56 recommendations without further consideration. These 24 recommendations are included in paragraphs 70 and 72 of the report on San Marino. The remaining 32 recommendations have been carefully examined by the San Marino authorities.

Responses of San Marino to the recommendations contained in paragraph 71 of the report of the Working Group on the Universal Periodic Review (A/HRC/14/9)

2. **Recommendations 1/2:** At the time being the San Marino Government does not intend to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families since its provisions seem to be unsuitable for the features and legal order of a small State. Thanks to the ratification of important international legal instruments in the field of human rights, together with the domestic legislation on labour and social security, San Marino is able to combine control and security of a small territory and its population with the protection of the interests of foreign workers and their families, with a view to preventing any forms of exploitation and discrimination in the fields both of labour and of health and social security. With regard to the latter, the national legislation presently in force provides for some protection measures intended for all workers, in proportion to their capacity, without any distinction based on their citizenship or residence/stay permit.

3. **Recommendations 3/4/7:** At the time being San Marino does not intend to sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Considering the shortage of human resources within San Marino Administration, and as already mentioned in the national report and in the opening speech by the San Marino Head of Delegation during the seventh session of the UPR Working Group of the Human Rights Council, San Marino would not be able to fulfil the obligation under Article 29, with consequent further delays in the submission of national reports. For this reason, San Marino is not in a position to accept Recommendations 3, 4 and 7, also because no cases of enforced disappearance have ever been reported on its territory, considering its small dimensions (61 square km) and the detailed control activity carried out by police forces.

4. **Recommendation 5:** San Marino accepts this Recommendation in the light of the explanations provided by the San Marino Head of Delegation during the interactive dialogue on the occasion of the seventh session of the UPR Working Group of the Human Rights Council. This is to be intended in the sense that San Marino envisages to accede to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, despite Articles 3 and 4 of Law no. 15 of 1990 provide that, in the exceptional circumstance of the general mobilisation, all San Marino citizens aged 16-60 may be called up to perform military service. These provisions are indeed a historical legacy and such a case has never occurred throughout the history of the Republic. In San Marino, neither the military nor the civil service is compulsory.

5. **Recommendations 6/8:** The possibility of acceding to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights has been considered. However, taking into account the shortage of human resources within San Marino Administration and as already indicated in the national report and in the opening speech by the San Marino Head of Delegation during the seventh session of the UPR Working Group of the Human Rights Council, San Marino would not be in a position to guarantee full and

effective implementation of Article 6 of the Optional Protocol. With regard to the possibility to accede to the Convention on the Prevention and Punishment of the Crime of Genocide, it should be noted that, in conformity with the Declaration on the Citizens' Rights, the Republic of San Marino receives generally recognised rules of international law as integral part of its constitutional order. This is certainly the case of the rules contained in the Convention on the Prevention and Punishment of the Crime of Genocide, which are unanimously considered as *jus cogens*. Therefore, San Marino undertakes the commitment to ratify the Convention on the Prevention and Punishment of the Crime of Genocide and, in conformity with Article 5 thereof, to amend the Criminal Code, by enacting the necessary legislation, with a view to introducing the crime of genocide and the other acts enumerated in Article 3. For the aforementioned reasons, San Marino is not in a position to accept Recommendation 8, but it is in a position to accept partially Recommendation 6 as far as it concerns the Convention on the Prevention and Punishment of the Crime of Genocide.

6. **Recommendation 9:** San Marino does not intend to ratify the International Labour Organization (ILO) Conventions indicated in the Recommendation. Indeed, the reporting requirements to the International Labour Office, which are regulated through a very demanding annual monitoring system, are extremely difficult to be fulfilled, on account of the already extensively mentioned shortage of human resources within San Marino Administration. Although it is not a State party to the aforesaid International Labour Organization Conventions, San Marino provides information on their application through the control system of the International Labour Office, which provides for periodic reporting requirements also on non-ratified Conventions.

7. **Recommendation 10:** San Marino intends to accept this Recommendation. The Authority for the Authorisation, Accreditation and quality of Health, Social and Educational Services has been established in 2004. Since its establishment it has technically supported the enactment of a series of rules, which have favoured the ongoing qualitative improvement of services. At the time being, Decrees concerning the specific requirements for institutional accreditation are at an advanced stage of preparation. These Decrees will pay special attention to vocational training of all persons who deal with health, social and educational services destined to ill and disabled persons, the elderly and children.

8. **Recommendations 11/12/13/14/15/16/17:** These Recommendations have been thoroughly considered by the San Marino Government, which has recognised the need to further study this issue, in the light of the competencies of existing national bodies and of international rules in this field. For this reason, and recalling what already stated on the occasion of the opening speech by the San Marino head of Delegation during the seventh session of the UPR Working Group of the Human Rights Council, at the time being San Marino is not in a position to accept these Recommendations.

9. **Recommendation 18:** San Marino accepts this Recommendation in the light of the explanations provided by the San Marino Head of Delegation in her opening speech during the seventh session of the UPR Working Group of the Human Rights Council. San Marino is indeed committed to collaborating with the United Nations Human Rights Treaty Monitoring Bodies, although the shortage of human resources within the San Marino Administration will not allow to submit more than one report per year.

10. **Recommendation 19:** San Marino accepts this Recommendation in the light of what stated above and, most of all, as a follow-up to the commitment already demonstrated in 2003, by extending a standing invitation to all special procedures of the former UN Commission on Human Rights, now the Human Rights Council.

11. **Recommendations 20/21:** The legal order of the Republic of San Marino affirms and guarantees the principle of equality and the prohibition of any discrimination, as

indicated in detail by the San Marino head of Delegation in her speech on the occasion of the seventh session of the UPR Working Group of the Human Rights Council. However, these Recommendations make reference to the category of “sexual minorities”, which is not provided for by the San Marino legislation. Therefore, the Republic of San Marino is not in a position to accept these Recommendations.

12. **Recommendation 22:** No discrimination is made in the San Marino legal order between children born out of wedlock (defined as natural children) and in wedlock (defined as legitimate children). Therefore, San Marino accepts this Recommendation, while undertaking to introduce a new terminology in its legal order.

13. **Recommendations 23/24/25/26:** San Marino accepts these Recommendations, while undertaking to amend its Criminal Code.

14. **Recommendation 27:** San Marino accepts this Recommendation, while undertaking to raise from 12 to 14 the age of criminal liability of children under the Criminal Code.

15. **Recommendation 28/29/30:** The special role played by the family has always been recognised in the Republic of San Marino, since it is a fundamental and highly valuable unit of society. According to the family law presently in force, family is based on marriage, which is defined as the “union between a man and a woman, based on the free and responsible choice and on the moral and legal equality of both partners” (Art. 1 of Law no. 49 of 26 April 1986). The San Marino Welfare State provides for several social benefits and assistance measures to support also non-conventional family models. However, there are still differences between traditional family models based on marriage and other models. Therefore, the Republic of San Marino is not in a position to accept Recommendations 28/29/30.

16. **Recommendations 31/32:** The Government, together with the political forces making up the majority coalition, is carefully examining the issue of naturalisation, in view of submitting to the Parliament a draft law on this matter. San Marino is not in a position to accept these Recommendations, but it will report on the results of this debate on the occasion of next review before the Human Rights Council.
