



**International Covenant
on Civil and
Political Rights**

Distr.
GENERAL

CCPR/C/SMR/Q/2
12 November 2007

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Ninety-first session
Geneva, 12 October-2 November 2007

**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH
THE CONSIDERATION OF THE SECOND PERIODIC REPORT
OF THE REPUBLIC OF SAN MARINO (CCPR/C/SMR/2)**

**Constitutional and legal framework in which the Covenant and the Optional Protocol are
implemented; right to an effective remedy**

1. Please provide information on the exact status of the Covenant and the Optional Protocol in the San Marino's law, in particular, vis-à-vis the status of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
2. Have there been any developments in legislation or case law implementing Covenant provisions in San Marino's law since the consideration of its initial report? Please provide examples of relevant case law where the Covenant has been directly invoked before domestic courts.
3. Please provide information on any national institutions, other than the courts, responsible for supervising the implementation of human rights in the State party, as well as on their mandate. If no such mechanism exists, are there any plans to establish one?

Counter-terrorism measures and respect of Covenant guarantees

4. Please indicate the legislative and other measures adopted in relation to combating terrorism pursuant to Security Council resolution 1373 (2001). How may those measures affect the rights guaranteed under the Covenant?

Prohibition of discrimination, gender equality, violence against women and domestic violence equality before the law (arts. 2, 3, 7, 24 and 26)

5. Please indicate what the State party means by 'personal status' in article 4 of the Law No. 59 of 8 July 1974 (Declaration on the Rights of Citizens and Fundamental Principles of San Marino Constitutional Order, hereinafter "the Declaration"), as amended by Law No. 95 of 19 September 2000? Does article 4 cover prohibition of discrimination on the grounds of both sex and sexual orientation? What is meant by the notion of 'moral equality' of spouses in article 12 of the Declaration?

6. Please indicate whether domestic violence is an offence under the State party's law. Please also provide information, if any, as to the number of complaints received, investigations carried out, persons prosecuted and victims compensated.

7. Does the State party envisage reviewing the law on citizenship with a view to allowing all children born to San Marino citizens, male or female, to acquire San Marino nationality at birth?. Is there any distinction in the provisions related to the naturalization of children, depending on whether they were born from a naturalized mother or father?

8. Is there any difference between the inheritance entitlements of men and women under the State party's law?

9. Please provide information about measures taken to ensure practical implementation of the principle of non-discrimination against persons with disabilities.

10. Please indicate whether the *cautio judicatum solvi in casum succumbentiae*, whereby a foreigner is required to present a guarantor ensuring the fulfilment of any obligation deriving from the judgment as a condition enabling him to start a civil action before San Marino judicial authorities, is no longer applicable in law or in practice? In case the *cautio* still exists by law, is there any initiative to abolish it?

11. According to the State party report, the problem of racial discrimination is not an issue in San Marino, and the principle of non-discrimination is fully implemented through various laws regulating different fields of civil coexistence. Please provide information on the existence and concrete application of specific criminal law provisions against incitement to racial violence, hatred and discrimination.

12. Please indicate the proportion of women in public office, in particular, in the Great and General Council (Parliament), the Congress of State, the judiciary and civil service as well as in the field of education.

Right to life, prohibition of torture and cruel, inhuman or degrading treatment or punishment, and treatment of detainees (arts. 6, 7 and 10)

13. Please provide information on :

(a) The number of complaints alleging ill-treatment by law enforcement officials registered in the last five years?

- (b) Investigations initiated upon receipt of such complaints during the same period of time, and their outcome.

14. According to the State party report, abortion continues to be subject to criminal penalties under articles 153 and 154 of the Criminal Code. Moreover, harsher penalties may be imposed when an abortion is performed by a person working in the health-care system. Please provide information on the existence of exceptions to this general prohibition. Please comment on the compatibility of the criminalization of all abortion with article 6 of the Covenant.

Right to liberty and security of the person and right to a fair trial (arts. 9 and 14)

15. Please provide information on further developments related to the work of the ad hoc Parliamentary Commission in charge of drafting a new Code of Criminal Procedure. In particular, how would a new Code affect the role of the *Procuratore del Fisco*? How long may a person be held in detention before being brought before a judge? Is such detention in police premises? At what point is there access to the outside world, in particular, to a lawyer?

16. Please explain the functioning of the civil and criminal legal aid system in San Marino and provide details on the number and type of cases in which legal aid has been sought, granted and denied over the last five years.

17. Please provide more information on measures in place to guarantee the independence of the judiciary, as per Constitutional Laws Nos. 144 and 145 of 30 October 2003.

Right to confidentiality (art. 17) and freedom of opinion and expression (art. 19)

18. According to the State party report, there are no legislative provisions in San Marino allowing the judicial authority to order wire tapping. Please elaborate on this statement. The Committee has become aware of the plan to develop a specific law on wire and phone tapping for investigation purposes based on Law No. 28 of 26 February 2004. Please indicate whether this law was adopted, and comment on its compatibility with article 17 of the Covenant.

19. Please provide information on the compatibility of articles 183 and 184 (the right to reputation) of the Criminal Code with article 19 of the Covenant.

Right of persons belonging to minorities (art. 27)

20. According to the State party report, there are virtually no ethnic minorities living on the territory of San Marino. According to various sources, the number of non-citizens living and working in the State party has increased over the past few years and now includes, as well as Italians, persons from Central and Eastern Europe, South America and Africa, who have different ethnic, linguistic and/or religious identities from the majority. Please provide recent statistical information on the composition of the State party's population.

Dissemination of information regarding the Covenant (art. 2)

21. Please provide information on human rights training, if any, provided to judges, prosecutors, lawyers, law enforcement officials and others involved in the administration of justice, as well as teachers, regarding the provisions of the Covenant and of its Optional Protocol.
