



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**  
**112th session**

**Summary record of the 3055th meeting\***

Held at the Palais Wilson, Geneva, on Thursday, 11 April 2024, at 3 p.m.

*Chair:* Mr. Balcerzak

**Contents**

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

*Initial report of San Marino*

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\* No summary record was issued for the 3054th meeting.

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*The meeting was called to order at 3 p.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** (*continued*)

*Initial report of San Marino* ([CERD/C/SMR/1](#); [CERD/C/SMR/QPR/1](#); [CERD/C/SMR/Q/1](#))

1. *At the invitation of the Chair, the delegation of San Marino joined the meeting.*
2. **The Chair**, welcoming the delegation of San Marino to the meeting, explained that some members of the delegation would be participating via video link.
3. **A representative of San Marino**, introducing his country's initial report ([CERD/C/SMR/1](#)), said that, while San Marino had not reported to the Committee since ratifying the Convention in 2002, that did not imply a lack of effort or of progress in the area of human rights. In fact, San Marino had actively committed to developing instruments for the prevention, combating and punishment of crimes related to racial discrimination and had implemented and strengthened effective measures in many areas covered by the Convention. As a member of the Council of Europe, San Marino had been subject to monitoring and evaluation by the European Commission against Racism and Intolerance since 1997. Since the publication of the Commission's first report in 1998, San Marino had endeavoured to implement the Commission's various recommendations and had introduced appropriate instruments to prevent and combat racism and intolerance.
4. In the San Marino legal system, the Declaration on Citizens' Rights and the Fundamental Principles of the San Marino Legal Order (Law No. 59 of 8 July 1974 and subsequent amendments) served as the country's constitution. Article 4 of the Declaration established the absolute principle of equality of persons before the law, from which the principle of non-discrimination could be inferred, but did not explicitly mention racial discrimination. Article 1 stipulated that the Republic of San Marino must adopt generally recognized rules of international law as an integral part of its legal system and must comply with the provisions set forth in international declarations on human rights and fundamental freedoms. In case of conflict, international agreements on the protection of human rights and freedoms must prevail over domestic legislation. It was therefore clear that the definition of racial discrimination contained in article 1 of the Convention prevailed over national legislation and guided the interpretation and application by judges of all relevant laws.
5. Articles 179 bis and 90 (1) of the Criminal Code, as amended by Law No. 66 of 28 April 2008, provided, respectively, for the offence of discrimination on the grounds of race, ethnicity, nationality, religion or sexual orientation, and for an aggravating circumstance in the event that an offence was committed for the purpose of discrimination on the same grounds.
6. San Marino had two institutions, the Authority for Equal Opportunities and the Commission for Equal Opportunities, that promoted equal treatment and equal opportunities for all citizens, regardless of their gender, ethnicity, religion, disability or other personal characteristics. The Authority was an independent body that developed policies and promoted action to prevent and combat violence against women and gender-based violence. It advised the Government and the parliament and proposed legislative measures and programmes to combat all forms of violence and discrimination. The Commission was an advisory body appointed by the Great and General Council (the parliament) at the beginning of each legislature. It monitored the implementation of gender equality policies, provided support to people suffering discrimination and raised awareness of the importance of equal opportunities. Both institutions played a crucial role in ensuring an inclusive social environment that respected the fundamental rights of all citizens.
7. In order to comply with the recommendations of several international bodies, the Government was in the process of setting up an equal opportunities hub that would work to prevent and combat discrimination and intolerance. An office known as the Technical and Administrative Secretariat for Equal Opportunities, Bioethics and Social Inclusion had been established in 2023.

8. The Government recognized that education was fundamental for preventing and combating racial discrimination. In San Marino schools, students were taught to respect and value cultural and ethnic diversity. Accordingly, San Marino had recently ratified the UNESCO Convention against Discrimination in Education, which had entered into force for the country on 11 June 2020, and was in the process of acceding to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

9. In January 2019, San Marino had ratified the Council of Europe Convention on Cybercrime and the Additional Protocol thereto concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems. Legislation intended to effectively implement the provisions of that Convention was currently being drafted, with a view to introducing new offences.

10. In a context of social change, the Government had abolished compulsory religious education and had introduced a course entitled “Ethics, Culture and Society” as an alternative for students who chose not to participate in religious education. That measure reflected the Government’s focus on inclusion and its commitment to a broader and more diverse vision of education, promoting values of tolerance, respect and intercultural understanding.

11. On 28 April 2022, the authorities, in cooperation with the Italian Observatory for Security against Acts of Discrimination, had organized a conference on the fight against hate crime and the prevention of all forms of discrimination. The Government recognized the growing importance of providing law enforcement and legal professionals with appropriate training on hate crime.

12. In keeping with the spirit of hospitality and solidarity that had always characterized San Marino, the country’s institutions and civil society had welcomed many Ukrainian citizens fleeing the war that had broken out in their country. The authorities had taken prompt action to accommodate Ukrainian citizens in a sustainable manner, within the limits of the country’s capacity.

13. **Ms. Tebie** (Country Rapporteur) said that, although the Committee had expected to receive the initial report of San Marino in 2003, the report had not been submitted until 2022. The Committee welcomed the information provided on the demographic composition of the State party, which in 2021 had had a population of about 35,000 inhabitants, including 6,700 foreign nationals. It would, however, appreciate up-to-date information on the population, disaggregated by national origin and language spoken. It would also be interested to know why the State party did not systematically collect data on the different religious groups that lived on its territory. As the figures contained in the report did not reveal any specific details about the foreign population, she wondered whether the delegation could provide disaggregated data on categories of persons such as refugees, asylum-seekers, stateless persons and migrants, or, if not, explain what constraints or obstacles prevented it from collecting such data. She would also appreciate information on the socioeconomic situation of different population groups.

14. As the Committee had received no information concerning the drafting of the State party’s report, she wished to know how the report had been prepared and which institutions, actors and civil society organizations had been consulted during that process.

15. The Committee remained concerned that neither article 4 of the Declaration on Citizens’ Rights and the Fundamental Principles of the San Marino Legal Order nor the amended articles 90 and 179 bis of Criminal Code applied a definition of racial discrimination that was in full conformity with article 1 of the Convention. Articles 90 and 179 bis of the Criminal Code identified race, ethnicity and nationality as prohibited grounds of discrimination, but did not mention skin colour or descent. She therefore wished to know whether the State party had adopted any laws that reproduced the definition of racial discrimination set forth in the Convention, and what approach or measures the State party had taken to prohibit discrimination on the grounds of skin colour and descent. When would the State party adopt comprehensive civil and administrative legislation against racial discrimination? What steps had it taken to ensure that its laws prohibited direct and indirect racial discrimination? Had the State party formulated a policy or developed programmes or action plans to combat racial discrimination and, if so, what had been the results?

16. Although there had been no direct application of Convention provisions in judgments issued by the San Marino Court, it seemed doubtful that racial discrimination did not exist in the State party. It would therefore be useful to know how the State party ensured that members of the public were informed about their rights under the Convention and the remedies available to them. She wondered what measures had been taken to facilitate the submission of complaints of racial discrimination. The delegation might also provide information on reported acts of prejudice towards foreigners and on how the authorities had dealt with such acts.

17. She would be interested to know what specific steps had been taken to raise awareness of the Convention among judges, magistrates, lawyers, law enforcement officers and public officials. Information on the number of training courses and awareness campaigns that had been organized on the Convention and on the State party's criminal law provisions relating to racism and racial discrimination, and on the groups targeted, would be welcome.

18. Lastly, she wished to know whether the authorities had put in place a system for monitoring the incidence of racist and discriminatory acts, including reports made to the authorities, as recommended by the European Commission against Racism and Intolerance in its second report on San Marino. If so, could the State party provide the Committee with statistics on reported incidents?

19. **Mr. Guan**, observing that article 179 bis of the Criminal Code provided for those who committed discriminatory acts to be punished with second-degree imprisonment, said that he would like to know, by way of comparison, what punishments might be imposed for offences deemed to have the aggravating circumstance of having been committed for discriminatory purposes.

20. According to the common core document ([HRI/CORE/1/Add.119](#)), article 2 of the Code of Criminal Procedure stipulated that, in some cases, the institution of criminal proceedings required the injured party to lodge a complaint. He would appreciate clarification of whether, in cases that normally required the lodging of a complaint, proceedings could be instituted ex officio if they involved an element of racial discrimination.

21. **Ms. Tlakula** said that it was unusual that the Committee had not received any submissions from non-governmental organizations (NGOs). She wondered whether any NGOs operated in San Marino and whether they worked with the Government.

22. **Mr. Yeung Sik Yuen**, noting that Law No. 83 of 28 October 1992 empowered victims to sue the State for damages caused by judges, said that he would be grateful if the delegation would clarify whether a judge in a court of first instance who had ruled that there had been no racial discrimination in a particular case was liable to be sued by the alleged victim if an appeal court subsequently ruled that there had, in fact, been racial discrimination. In such a case, would the victim be required to present additional evidence, for example that the judge in the court of first instance had acted in bad faith? The delegation might also clarify whether the process whereby a judicial authority was obliged to act as soon as it received a report of racial discrimination could be vulnerable to abuse of process.

*The meeting was suspended at 3.40 p.m. and resumed at 3.45 p.m.*

23. **A representative of San Marino** said that she wished to emphasize that her Government was firmly committed to implementing the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. The late submission of its initial report to the Committee was evidence of the difficulties faced by the Government's relatively small administration in completing the work involved. Education was a particular focus in San Marino, where efforts were dedicated to combating all forms of discrimination, including those based on ethnicity, religion and origin, in schools. The Government did not collect data on the religion of the citizens of San Marino, as to do so in a country with such a small population could represent an intrusion into people's private life and undermine confidentiality and anonymity. Italian was the official language of San Marino. The Ministry of Foreign Affairs and the Ministry of Education worked to ensure that persons who were not from San Marino were afforded the opportunity to learn Italian and were therefore able to read important documents, while maintaining the utmost respect for other cultures and diversity. The Ministry of Foreign Affairs had collaborated with a number

of different stakeholders in preparing the initial report but did not work with any NGOs on the elimination of racial discrimination because, to its knowledge, no such organizations existed in San Marino. That could be perceived as a positive: none existed because racial discrimination was not a serious problem in San Marino.

24. **A representative of San Marino** said that the Office of Informatics, Technology, Data and Statistics, since its establishment in 1972, had been gathering data on demographics, economics and other metrics on a monthly basis, as part of its administrative tasks. It did not conduct statistical surveys, as to do so would put at risk the anonymity of those living in San Marino, the population of which numbered just 35,000. For the same reason, the Government did not gather data on sexual orientation or languages spoken other than Italian. The most recent census had been conducted in November 2009. Data on nationality and country of origin of persons who were not citizens were gathered from an administrative source.

25. **A representative of San Marino** said that, under article 179 bis of the San Marino Criminal Code, the crime of racial discrimination carried a punishment of a prison sentence lasting from 6 months to 3 years. Under article 90 of the Criminal Code, criminal proceedings could be initiated following the submission of a complaint by an alleged victim of racial discrimination or a report by a law enforcement officer, and crimes of racial discrimination could also be prosecuted *ex officio*, particularly if there was an aggravating factor. Following a reform to the legal system in 2021, magistrates had not only the right to undergo training but also the duty to do so. In 2023 and 2024, the national body responsible for developing training materials for magistrates had produced training modules on discrimination, human trafficking and the protection of minorities. Constitutional law no. 1 of 7 December 2021 provided, in its article 11 (2), that, in the exercise of judicial functions, the interpretation of legal provisions or the assessment of facts and evidence did not give rise to civil liability.

26. **A representative of San Marino** said that, in addition to efforts to raise awareness of the Convention among the general public, a training programme was dispensed to all law enforcement officials, including police officers. That training emphasized the need for officials to abide by a code of conduct established by Decree No. 59 in 2015, to respect the principle of the equality of all citizens before the law, and to combat racism and xenophobia. Training began upon recruitment and continued throughout a law enforcement official's career. Training courses dedicated to specific forms of crime, including hate crime, trafficking, organized crime and cybercrime, were organized regularly. In addition, San Marino collaborated with other Governments on training and awareness-raising. For instance, in 2022 the Governments of San Marino and Italy had successfully organized a conference on victims of hate, which officers from law enforcement agencies in both countries had been invited to attend. Individual law enforcement bodies in San Marino organized smaller events, such as those to raise awareness of drugs and hate crime in schools and universities. San Marino was a small State, so any individual, whether a national or a foreigner, on the territory of the country could reach out to law enforcement officers at any time of day or night.

27. **A representative of San Marino** said that, while discrimination on the grounds of colour and origin was not explicitly mentioned in article 179 bis of the Criminal Code, judges in San Marino were fully aware of the provisions of the Convention and applied article 179 bis comprehensively in all cases of discrimination, including those on the grounds of colour and origin. One of the rare judgments issued under that article had specifically cited the Convention.

28. **A representative of San Marino** said that her country's legislation provided comprehensive protection against racial discrimination. The principle of equality of all citizens before the law was set out in article 4 of the Declaration on Citizens' Rights and the Fundamental Principles of the San Marino Legal Order. Explicit mention was made of discrimination based on gender and on personal, economic, social, political and religious status, and, following an amendment in 2019, on sexual orientation. Although there was no explicit mention of race in article 4, it was logical to presume that the wording in the article could extend to all cases of discrimination.

29. **Mr. Diaby** (Country Task Force) said that he wished to learn about measures that had been taken in the State party to establish a body with specialized capacity to monitor and

combat racism, racial discrimination, xenophobia and intolerance. In addition, he would appreciate receiving information on the steps taken by the State party to establish an independent and effective national human rights institution that was in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), especially as the State party was one of the few countries in Europe yet to do so. Lastly, the Committee wished to receive detailed information on the measures taken or envisaged to adopt a national plan of action against racism, and also information on the measures taken and the programme of activities organized in the State party within the framework of the International Decade for People of African Descent, and on the participation of groups and people of African descent in the design, implementation and monitoring of such initiatives.

30. **Ms. Boker-Wilson**, noting the estimated literacy rate of 100 per cent as given in the State party's common core document and the fact that it had cited a lack of experts in the defence of human rights as being an obstacle to the establishment of a national human rights institution, said that she wondered whether the delegation had any statistics on the professional expertise of the citizens of San Marino.

31. **Ms. Tebie** said that the Captains-Regent and the Authority for Equal Opportunities seemed to perform the same role of receiving and processing complaints of discrimination. She therefore wished to know whether there was any conflict of jurisdiction, confusion of roles or duplication of work between the two bodies, and whether there was any mechanism for coordination or collaboration between them. What were the prospects of introducing regulations in that regard?

*The meeting was suspended at 4.15 p.m. and resumed at 4.20 p.m.*

32. **A representative of San Marino** said that her country observed all international days, years and decades but had not organized any events for the International Decade for People of African Descent because persons of African descent comprised just 0.2 per cent of the population of San Marino.

33. **A representative of San Marino** said that her Government had on numerous occasions expressed its intention to establish a national human rights institution, which would have to be integrated into the national institutional system with due consideration for the requirements particular to a State with a small territory. That was why San Marino was in the process of implementing recommendations, issued following the third cycle of the universal periodic review, to establish an ombudsman and a national human rights institution. The most recent development had occurred in March 2024, when the Great and General Council had approved a petition on establishing a national human rights guarantor, which would allow citizens to contact the authorities directly. However, further progress would not be made until after the 2024 general elections had taken place. The Captains Regent met directly with citizens who wished to submit a complaint of violation of their rights by the Government. The complaint would then be examined and followed up by the relevant civil servants.

34. **A representative of San Marino** said that the estimated 100 per cent literacy rate had been gleaned from a census conducted in 2009.

35. **A representative of San Marino** said that the Commission for Equal Opportunities and the Authority for Equal Opportunities were similar but had different yet complementary roles. The Commission was tasked with drafting legal instruments to combat discrimination and intolerance, offering advice on bills under consideration in parliament, organizing awareness-raising events and training modules, and supporting the drafting of periodic reports for international organizations. By contrast, the Authority was tasked with receiving and verifying complaints concerning equal opportunities, particularly those relating to gender-based violence, offering legal, employment and health-care support to victims, and monitoring compliance with legislation relating to equal opportunities. It also collected and disseminated data and information on the principle of equality before the law. The Congress of State had established a working group to draft a proposal to establish a third body dedicated to combating racism and racial intolerance. In addition, a department on equal opportunities and bioethics had been established in 2023 and tasked with a number of responsibilities, including carrying out administrative tasks, enhancing procedures for submitting claims in cases of discrimination, and acting as a secretariat for the two aforementioned equal

opportunities bodies. Her Government had recently identified premises to accommodate all of those bodies under a single roof.

36. **Ms. Shepherd** said that she wished to emphasize that discrimination against persons of African descent often existed in places where such persons represented a minority of the population. She would therefore encourage the State party to conduct activities to promote awareness of different cultures, including in the context of a second International Decade for People of African Descent.

37. **Ms. Tebie** said that some of her questions had yet to be answered. She would be grateful if the delegation would provide up-to-date population data disaggregated by national origin, including specific details on asylum-seekers, stateless persons and migrants. She would also be grateful to know whether the fact of not applying or invoking the provisions of the Convention by or before the Courts constituted proof of the absence of racial discrimination, and to learn about the measures in place to facilitate the filing of complaints of racial discrimination. In addition, she still wished to know whether the computerized system for reporting incidents of racism and discrimination referred to in the second report on San Marino by the European Commission against Racism and Intolerance had been put in place; if so, she would be interested to receive statistical data on incidents reported and followed up. Lastly, she wished to know how many complaints of racial discrimination had been received by the Captains Regent, the Commission for Equal Opportunities and the Authority for Equal Opportunities.

38. **Mr. Diaby** said that the fact that the State party was in the process of establishing a national human rights institution was welcome. The State party must ensure that the institution, once established following the general elections, had a broad mandate that included all forms of discrimination, was independent and had sufficient human and material resources to discharge its duties. He wished to support the point made by Ms. Shepherd: persons of African descent in San Marino should be acknowledged and the International Decade for People of African Descent should actively recognized. He wondered whether San Marino shared a colonial past with Italy and whether it had participated, directly or indirectly, in the slave trade. If that were the case, he also wondered whether the issue was addressed within the State party, specifically in school textbooks. The State party might develop its approach to the issue during a second International Decade for People of African Descent. Lastly, he would still be interested to learn about measures taken or envisaged to adopt a national plan of action against racism.

39. **Mr. Guissé** said that the State party, which was the oldest republic in the world, had historically been a land of refuge for the persecuted; however, he wondered whether it continued to be so. Acquiring nationality in the State party took 30 years – in other words, a generation. He wondered whether any measures had been taken to make acquisition of nationality less difficult.

*The meeting was suspended at 4.40 p.m. and resumed at 4.45 p.m.*

40. **A representative of San Marino** said that the Office of Informatics, Technology, Data and Statistics published data on its website in both Italian and English. The population of San Marino was 80 per cent San Marinese, 15 per cent Italian and the remaining 5 per cent were of other nationalities. San Marino received between 350 and 400 migrants per year, 80 per cent of whom were citizens of Italy and the remainder chiefly citizens of Argentina or the United States of America.

41. **A representative of San Marino** said that all law enforcement agencies in San Marino, upon receipt of a discrimination complaint in connection with article 179 bis of the Criminal Code, were obliged to notify the judicial authorities. All three branches of the police shared a single computerized information system, access to which was password-protected. However, not all information was automatically shared between all three branches. Requests for information-sharing between branches were processed by a central operational unit.

42. **A representative of San Marino** said that article 1 of the Declaration on Citizens' Rights and the Fundamental Principles of the San Marino Legal Order provided for international agreements on the protection of human rights and freedoms to prevail over domestic legislation. As a result, the provisions of the Convention were duly implemented;

judges were required not only to be au fait with them but to apply them. The fact that the Convention was rarely invoked in practice was due to the low number of cases relating to discrimination.

43. **A representative of San Marino** said that her country remained a welcoming place of refuge. Following the outbreak of the war in Ukraine, her Government had established an emergency unit under the Ministry of Foreign Affairs, supported by law enforcement agencies and the Social Security Institute, to grant Ukrainian citizens fleeing the war temporary residence permits that allowed them access to health care, housing, education and the labour market. Her Government had welcomed more than 400 Ukrainian citizens, 100 of whom remained in San Marino and continued to benefit from all of the aforementioned services.

44. **A representative of San Marino** said that citizenship could be acquired either by *jure sanguinis*, meaning a person must have a parent who was a citizen of San Marino, or by naturalization, meaning a person must be continuously resident in San Marino for the requisite number of years. A law adopted in 2019 had shortened the required number of years of residence from 25 years to 20 or, in certain cases, to 10 years. Although persons acquiring citizenship by naturalization were currently required to renounce all other citizenships, a petition to amend that requirement had been approved; a draft law was currently under consideration and would likely be adopted in the coming months.

*The meeting rose at 5 p.m.*