



**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 3056th meeting**

Held at the Palais Wilson, Geneva, on Friday, 12 April 2024, at 10 a.m.

*Chair:* Mr. Balcerzak

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*The meeting was called to order at 10 a.m.*

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

*Initial report of San Marino (continued)* ([CERD/C/SMR/1](#); [CERD/C/SMR/Q/1](#); [CERD/C/SMR/QPR/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 additional members of the delegation would be participating via video link. He invited Committee members to resume their consideration of the initial report of San Marino ([CERD/C/SMR/1](#)).
3. **Ms. Tebie** (Country Rapporteur) said that article 179 bis of the Criminal Code, penalizing the dissemination of ideas based on racial or ethnic superiority, hatred or violence, and incitement to commit discriminatory offences, did not cover all the acts or all the grounds of discrimination set out in the Convention. She would like to know how the law of the State party punished the other acts of discrimination under the Convention. She would also like to know what mechanisms had been put in place and what action had been taken to prevent and combat hate speech and expressions of discrimination, particularly against non-citizens, and with what results.
4. With reference to paragraph 19 of the State party's report, she would appreciate an explanation as to why the majority of proceedings under article 179 bis of the Criminal Code had been terminated during the investigation stage. She would appreciate more detail on the grounds and type of discrimination addressed in each proceeding and up-to-date, disaggregated statistics on violations under article 4 of the Convention. What steps had been taken to create a mechanism to gather such data? She would welcome information on the groups most exposed to hate speech in San Marino and the reparations offered to victims of such acts.
5. She would like to know what progress had been made towards appointing a national contact point on hate crime in accordance with Organization for Security and Cooperation in Europe (OSCE) Ministerial Council Decision 9/09. She asked what activities had been carried out for law-enforcement, prosecution and justice officials dealing with hate crime.
6. Turning to hate speech in the media and online, she would be interested to know what progress had been made in setting up the supervisory and other bodies provided for in Law No. 211 of 5 December 2014 on publishing and the profession of media operators.
7. A blog purporting to be an online newspaper had reportedly published sensational articles about migrants that had later proved to be false or exaggerated, while another newspaper had published an interview with a priest who had apparently stereotyped Roma people as generally prone to theft. She would appreciate detailed information on those incidents and any action taken to follow up on them.
8. It appeared that the 2014 Law did not cover all media, online blogs or social media, and she would like to know what measures had been put in place or were envisaged to ensure that the scope of legislation in the State party extended to all media, in particular online media. In the light of the proliferation of social media, she wondered what preventive and protective measures had been taken to guard against hate speech in the media and on the Internet. She would be interested to know what data were collected on racist hate speech and hate crimes on the Internet and in the media, and she would welcome any statistics that could be provided on complaints, investigations and convictions under the 2014 Law and other relevant legislation.
9. She would like to know what had become of the plan to introduce media education into the school curriculum, put forward at the High-Level Conference on the Dangers of Disinformation held in San Marino in May 2019. What outcomes could the delegation report?
10. In the area of cybercrime, she would appreciate receiving information on the legal, policy, policing and technical measures put in place to prevent racist and xenophobic acts

and stigmatization through the Internet, social media and digital platforms, and through the use of artificial intelligence.

11. Noting that, during the most recent legislative elections, cases of populist and xenophobic rhetoric had been reported, she would like to know what measures were being taken to encourage self-regulation by political parties, elected bodies and cultural associations in order to prevent the use of offensive or hateful speech by their representatives. What progress was being made towards adoption of a draft code of conduct for parliamentarians?

12. Following the 2015 amendment of the Law on the entry and stay of foreigners in the Republic of San Marino to extend the duration of stay from 11 months to 12 months, it was no longer necessary for migrant workers caring for elderly persons to return to their country before renewing their temporary residence permit. She would like to know whether that amendment represented a significant change, and whether such workers had the right to family reunification.

13. She would appreciate an estimate of the number of so-called *badanti*, women migrant workers from central and eastern Europe who worked as caregivers for older persons, currently present in the State party, as well as any statistics that could be provided, disaggregated by country of origin. She wondered what steps the State party was taking to address their insecure employment situation. She would be interested to know if other workers were in a similar situation. She would like to know, as far as possible, the exact number of such persons registered with the helpdesk that had been set up at the Social Security Institute for the recruitment of caregivers and with similar services set up by the San Marino Labour Confederation and the San Marino Union of Workers. What benefits were provided by those units?

14. She would appreciate the delegation's comments on information received by the Committee to the effect that non-nationals and other undeclared workers employed under outsourcing contracts, particularly in the construction sector, enjoyed significantly less advantageous conditions than colleagues performing the same duties. She would be interested to know what measures were taken to monitor such hiring practices and address any unjustified impact they might have on non-nationals. She would like to have statistics on the number of frontier workers in the State party's labour market.

15. With regard to persons entering the country who had San Marino nationality but were descendants of people who had emigrated to Argentina, she would like to know what strategies the State party was putting in place to improve their reception and prevent them falling prey to discrimination. What measures had been taken to support them in facing challenges such as learning Italian, finding work and having their qualifications recognized?

16. Noting that some Romanian nationals working as nurses had reportedly had their contracts terminated on the grounds that their poor Italian hampered communication with doctors and therefore constituted a health risk, she would welcome information on measures taken to ensure that nurses and health workers in public hospitals and health facilities were not subjected to discrimination on grounds of language, nationality or national or ethnic origin. She would be interested to learn of any surveys carried out on racial discrimination in recruitment and the labour market and of measures taken to combat it.

17. With reference to paragraph 21 of the State party report, the Committee would like to receive detailed information on the new residence permits that had been introduced and the rights enjoyed by permit holders. What arrangements were in place to ensure access to health care for foreign workers who did not have the relevant permit?

18. She would like to know the total number of non-Italian-speaking children in nursery, primary and secondary schools in the State party and whether they received mother-tongue teaching. She would be interested to hear about the policies and strategies put in place to protect the linguistic culture of non-Italian-speaking populations, particularly in education.

19. The Committee understood that foreigners who had been resident for at least 10 years were entitled to vote in municipal elections. Did they also have the right to stand in elections? If so, how many non-nationals held seats in the municipalities? Lastly, she wished to know what consideration had been given to the recommendation by the Parliamentary Assembly of

the Council of Europe, to reduce the period of residence required for foreign residents to be eligible to vote in local elections to five years, in line with European standards.

20. **Ms. Tlakula** said that she would be interested to learn of any measures taken to address the use of artificial intelligence to spread racist misinformation and disinformation.

*The meeting was suspended at 10.20 a.m. and resumed at 10.25 a.m.*

21. **A representative of San Marino** said that there were several components to the overall context of the legal framework governing non-nationals and asylum seekers in San Marino. Firstly, as an enclave within another State, with which it maintained closely intertwined human, economic and trade relations, San Marino had long since adapted its legal order to the arrangements in force in Italy, namely European Union rules and the regulations applicable in the Schengen area, including the lifting of border controls. Secondly, its administrative capacity was too limited to permit it to accede to all international instruments, with their onerous legislative and reporting implications.

22. **A representative of San Marino** said that the expert team from the Labour Inspectorate of the Labour and Active Policies Office kept a very close eye on conditions for both local workers and frontier workers, particularly in the commercial sector, where most foreign workers were employed. It carried out more than 3,000 inspections a year and checked new construction sites every day. No cases of racism or racial discrimination had been found. The Labour Inspectorate was fully conversant with labour regulations and international standards and was aware that there were workers from other countries and workers with different religions. The most important consideration was for all workers to benefit from the same conditions, whatever their origin. No distinction was made between residents and non-residents, or between frontier and local workers. As civil servants, inspectors observed a code of conduct and, where any crime was detected, they would notify the competent judicial authority.

23. The legislation governing foreign workers did not refer to the concept of outsourcing. Their status was rather that of detached workers: they were subject to the regulations of other States, such as Italy, and as such were non-citizens with the right to work in San Marino. Access to health care was provided and inspectors checked workers' documentation for the proper health insurance. Labour protection was thus fully guaranteed.

24. **A representative of San Marino** said that there were currently 450 family care contracts between households and private providers. Care for older persons, as provided by *badanti*, was the biggest sector; other areas were assistance for persons with disabilities, and what was known as domestic assistance. The main nationalities represented were Romanian, Moldovan and Ukrainian. Their numbers increased as the need increased, as the population aged. The extended, 12-month work permit could be renewed three times in succession, giving up to 48 months in San Marino territory, after which a new application had to be made. At that point, workers were permitted to remain in the territory for one month if they wished, although many returned home to visit, paid holidays being guaranteed under the collective agreement. The principal applicable legislation dated from 1961 and guaranteed the rights of all workers.

25. Annual renewal of the work permit entailed a health checkup, which was provided by the State free of charge for care workers. There was close liaison with the health services to ensure that all was well, while a special unit of the gendarmerie ensured that there were no rights violations. Care workers were entitled to file complaints with any of a number of bodies, but none had ever been received. All categories of workers enjoyed the broadest possible protection.

26. **A representative of San Marino** said that, although article 179 bis of the Criminal Code did not refer explicitly to discrimination on grounds of skin colour or origin, judges had handed down sentences for such crimes. Offences under that article were uncommon; just five had been recorded, with sentences handed down in two cases. One additional case of discrimination on grounds of sexual orientation was currently under investigation.

27. Cybercrime was investigated by the criminal investigation police, with the assistance of experts in information and communications technology. San Marino was a party to the Council of Europe Convention on Cybercrime. Reports of online hate speech were verified

and investigated thoroughly, including through the seizure of equipment and wiretapping. Websites that published material amounting to hate crime could be taken offline, as had happened in one case that remained under investigation.

28. As an example of measures taken to ensure that nurses and health workers were not subjected to discrimination, a case involving health-care workers in the national hospital was currently before the courts.

29. **A representative of San Marino** said that the shutting down of websites alleged to have published hate speech must be ordered by a judge. The Internet was monitored for hate speech, particularly during events such as strikes, sporting fixtures and electoral campaigns. Cases involving online media or personal blogs were investigated thoroughly, ex officio, in the same way as cases involving registered media outlets.

30. **A representative of San Marino** said that the Government had ratified the Council of Europe Convention on Cybercrime and its First Additional Protocol in 2019. A recently adopted decree defined the perpetrators and victims of cybercrime, including minors who were responsible for, or the targets of, cyberbullying; that crime could be investigated by the gendarmerie, either ex officio or after victims had lodged complaints, which they could do anonymously.

*The meeting was suspended at 10.50 a.m. and resumed at 10.55 a.m.*

31. **Ms. Tebie** said that many of her questions remained unanswered, including those concerning hate speech and the eligibility of non-nationals to participate in public life at local level. Those questions would be transmitted to the delegation and they would have the opportunity to respond in writing.

32. **Mr. Yeung Sik Yuen** said that clarification was required as to what happened to migrant caregivers who decided to remain in the State party once their work contracts could no longer be renewed. He also wished to know whether family reunification was possible for those migrants.

33. **Ms. Esseneme** said that she would like to know under which law sentences had been handed down in cases of discrimination on grounds of skin colour or origin.

34. **A representative of San Marino** said that migrant caregivers whose contracts could no longer be renewed were required to return to their countries of origin in order to obtain certification that they had not been convicted of a crime, after which they could return to San Marino to work, once again on contracts that could be renewed for up to four years.

35. **A representative of San Marino** said that article 179 bis of the Criminal Code provided for discrimination based on race or religion, which included discrimination on grounds of descent or skin colour, while article 90 of the Code covered aggravating circumstances.

36. **A representative of San Marino** said that migrant caregivers' residency permits allowed for family reunification with their children. They could also be joined by their spouses, who were required to find employment. Their spouses were not, however, required to leave San Marino after the maximum four-year contract period had ended, but could remain in the country on a temporary permit for 30 days and then renew their permits for a further four years. The Social Security Institute offered access to Italian language classes and vocational training.

37. **A representative of San Marino** said that all police activity, including the use of force, was carried out in compliance with a code of conduct. Law enforcement agents who committed violations were subject to disciplinary proceedings by an administrative commission, or a military commission in the case of military officials, although criminal acts were dealt with under the Criminal Code. Officers received regular training on the appropriate use of force.

38. **A representative of San Marino** said that the Department of Education had organized a series of projects and initiatives in schools to promote democracy, tolerance and digital skills. Citizenship and digital skills curricula were delivered through activities, including meetings with parents and students, supported by the Council of Europe and with the

participation of numerous experts. All children in San Marino had the right to education, and non-citizens had access to Italian language classes. A dedicated body oversaw the validation of foreign qualifications based on objective criteria that ensured non-discrimination.

39. **Mr. Diaby** (Country Task Force) said that he would be interested to know whether the delegation was aware of any cases of racial profiling other than the one reported in the press; what sanctions were imposed on perpetrators; what damages were awarded to victims; and what measures were in place to prevent the practice. He wished to know whether police officers, gendarmes and security workers benefited from activities that provided awareness-raising, training and information on legislation prohibiting racial profiling.

40. He would like to hear about any plans to adopt legislation on refugees and asylum-seekers that conformed to international standards, and about procedures to determine asylum-seekers' refugee status. He wished to know what measures had been adopted to prevent statelessness and to facilitate the naturalization and protection of stateless persons, and he would welcome statistics on statelessness and persons at risk of statelessness. He wondered how persons wishing to acquire citizenship of San Marino, who were required to renounce their former citizenship, were protected from statelessness should their applications be denied.

41. The Committee would welcome information on policies or legislation to combat trafficking in persons for the purposes of forced labour, sexual exploitation and domestic slavery, along with information on related complaints, investigations, prosecutions, convictions, sentences and reparation and rehabilitation for victims. It would be useful to know how judicial and law enforcement officials, border police and social and health-care workers were supported in identifying victims of trafficking and affording them protection and assistance. He wished to know whether victims were protected from prosecution or expulsion owing to acts committed as a direct result of having been trafficked.

42. Information would be welcome on steps to promote human rights education, particularly with regard to racial discrimination, at all levels of the education system and during teacher training, along with details of the impact of such measures, and on initiatives to promote tolerance between the various ethnic groups living in the State party. What was being done to raise awareness of the importance of cultural diversity and tolerance among public officials, law enforcement and the general public?

43. **Ms. Shepherd** said that she would like to know whether the State party had familiarized itself with the Committee's general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials.

44. **A representative of San Marino** said that, rather than acceding to the Convention relating to the Status of Refugees and therefore being required to create a system for assessing asylum applications without the ability to conduct border checks, the Government had implemented a system for issuing residence permits on humanitarian grounds, which provided broad protection.

45. **A representative of San Marino** said that official records indicated that there were currently no stateless persons in San Marino. Individuals were required to renounce their former nationality only after the decision to grant them citizenship of San Marino had been made; they had five years to do so. The Government was expected to consider legal amendments that would abolish that requirement.

46. **A representative of San Marino** said that no sentences had been handed down for the crime of trafficking in persons. Nevertheless, victims enjoyed protection via the civil courts and had access to effective remedies, with the crime constituting an aggravating factor. A training programme for judges had recently been introduced that addressed all crimes relating to trafficking, along with matters linked to the rights of minorities. It was also accessible to judges in the civil courts.

47. **A representative of San Marino** said that, despite the lack of sentences, magistrates were well aware of the need to combat trafficking in persons. San Marino was party to the Council of Europe Convention on Action against Trafficking in Human Beings and had recently welcomed a Council of Europe delegation as part of the monitoring conducted under that instrument. Following the visit, efforts to align protection measures for victims with

international obligations had been stepped up, and a national anti-trafficking plan that would include training and awareness-raising for the judiciary was under development. The Criminal Code contained provisions on domestic slavery, trafficking in persons and forced prostitution, all of which were prosecuted *ex officio* in the criminal and civil courts. Legislation on providing legal and psychological assistance to women and children victims of violence was interpreted broadly to include victims of trafficking.

48. **A representative of San Marino** said that training courses for prospective teachers addressed digital citizenship and social inclusion. All pupils whose first language was not Italian – who comprised around 2 per cent of students at the primary and secondary levels – received support from specialist teachers and assistants. The Ministry of Education assisted schools in designing tailor-made activities to promote inclusion and anti-discrimination in response to specific incidents. All teachers received regular training on issues including discrimination, inclusion and the right to citizenship.

49. **A representative of San Marino** said that, from the beginning of the recruitment process and throughout their careers, officers of all law enforcement agencies received training on hate crime in everyday life and in terms of their own professional conduct. Officers also took part in training at the European level. Suspected cases of trafficking in persons were investigated by a special unit of the gendarmerie that dealt with foreigners, and the first action taken when cases were verified was to provide health care, food and interpretation services to victims. Children involved in cases received immediate psychological and legal assistance. In addition to specific training on trafficking provided by the gendarmerie, officers took part in training organized by the Italian Government and, in so doing, were able to exchange practices with representatives of other States that had greater experience in dealing with the crime.

50. **Mr. Diaby** said that the State party should include awareness-raising on the Convention in training for law enforcement officers. He wished to know what follow-up had been given to the case of racial profiling and when the State party planned to implement general recommendation No. 36 (2020).

51. **Mr. Gwalawala Sibande** said that it would be useful to know whether the State party planned to amend article 4 of the Declaration on Citizens' Rights and the Fundamental Principles of the San Marino Legal Order to prohibit discrimination on the grounds of race.

52. **Mr. Guissé** said that clarification would be welcome as to the State party's relationship with the Schengen area. He would like to know whether the State party planned to improve its adherence to international instruments dealing with refugees and to ratify the Convention relating to the Status of Refugees.

53. **Mr. Rayess** said that he wished to know whether the judicial and prosecution authorities could act on cases of racial profiling and trafficking *ex officio*, or whether they must wait for a complaint to be lodged.

54. **A representative of San Marino** said that the Government would need to examine general recommendation No. 36 (2020) closely before implementing it. While San Marino had not signed the Convention implementing the Schengen Agreement, it was sometimes deemed a *de facto* Schengen country; it was surrounded by a Schengen country and had joined the European Union Customs Union. Non-citizens entering the country must adhere to Schengen rules.

55. **Mr. Kut** (Follow-up Coordinator) said that, in accordance with article 9 (1) of the Convention, the Committee would request the State party to provide information, within one year of the adoption of the current concluding observations, on its follow-up on a number of recommendations selected by the Committee in terms of feasibility, importance and urgency. The interim follow-up report from the State party would then be evaluated by the Committee, and the State party would be informed by the Chair whether the Committee found the responses satisfactory or unsatisfactory. If they were unsatisfactory, further information would be requested in the next periodic report.

56. **Ms. Tebie** said that the State party's willingness to engage in its first interactive dialogue with the Committee demonstrated a commitment to making improvements. The

State party should strengthen its assessment mechanisms in order to render its data more accessible and up to date.

57. **The Chair** said that he hoped that the interactive dialogue marked the start of a lasting relationship between the Committee and the State party.

58. **A representative of San Marino** said that the Government was committed to implementing the Convention. Work remained to be done in that regard, however, and the Committee's concluding observations would provide an effective impetus for those efforts.

*The meeting rose at noon.*