

QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON SAN MARINO

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted-References in the National Report are *in Italics*.

Recommendations -including those from UN treaty-monitoring bodies, are at the end of the document.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women -as well as other women's issues- are referred to in the Guide on Women's Issues

ISSUE	N Report	Compilation	Summary
Equality and Non-Discrimination		Non discrimination grounds -as sexual orientation-subsumed under notion of "personal status" (11)	Sexual orientation and gender identity not included as non-discrimination grounds for equality before the law (8)
HIV/AIDS		See Recommendations, CESCR (31)	
Intolerance / Incitement to hatred			See Recommendations, JS1 (14)
Non-traditional families			Not recognized. Unequal rights on inheritance or residency (21)
Sexual orientation and gender identity			Lack of education and training programmes to promote the integration of LGBT people (6) Penalization of discrimination based on sexual orientation. No references to transgender or intergender issues (10)
Sexual Violence against children	Penal Code punishes violation of sexual freedom and sexual harassment of minors. Protection against family abuses (48)	Legislation. Lack of statistical data on child abuse and neglect (16)	
Trafficking/sexual exploitation /violence against children	Criminalization of slavery, trafficking and sexual crimes against minors		

	(Para 85) Training courses for judges, lawyers and law enforcement agencies (87)		
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OP-CRC-SC (Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography) not ratified.

Equality and Non-Discrimination

() The HR Committee was concerned that such non-discrimination grounds **as sexual orientation** (among others) were **subsumed under the notion of 'personal status'** in article 4 of the Declaration of Citizens' Rights. It observed that **such subsuming of grounds made it difficult to ensure their equal and comprehensive application** (Para 11, Compilation)

Council of Europe and European Commission against Racism and Intolerance (CoE-ECRI) was concerned that Article 4 (equality before the law) of the Declaration on the Citizens' Rights did not explicitly include non-discrimination grounds (). JS1¹ highlighted that Article 4 of the Declaration **did not make any reference to sexual orientation or gender identity** (Para 8, Summary)

See Recommendations, HR Committee (11)

HIV/AIDS

See Recommendations, Committee on Economic, Social and Cultural Rights - CESCR (31)

Intolerance / Incitement to hatred

See Recommendations, JS1 (14)

Non-traditional families

In 2009, JS1 reported that non-conventional family models such as unmarried partners, cohabitants and same-sex civil partners are **not recognized and therefore do not have the same rights when it comes to inheritance or residency** (Para 21, Summary)

See Recommendations, JS1 (21)

Sexual Orientation and Gender Identity

In 2009, JS1 reported that San Marino clearly **lacks education and training programmes to promote the integration of gay, lesbian, bisexual, and transgender people.** (Para 6, Summary)

In 2009, JS1 indicated that San Marino adopted Law N° 66 of 28 April 2008, entitled "Directives in regards to racial, ethnic, religious and sexual discrimination". According to JS1, the law punishes discrimination based on sexual orientation, **but does not make any reference to gender identity with regard to transgender or intergender issues** (Para 10, Summary)

Sexual Violence against children

¹ Joint Submission: Associazione Culturale Don Chisciotte; Associazione LGBT San Marino; Associazione Oasiverde; and Associazione Probimbi; San Marino

With a view to addressing violence against minors, San Marino Criminal Code punishes violation of sexual freedom (art.171), sexual harassment of minors (). By adopting Law No. 97 of 20 June 2008, new measures have also been introduced with regard to the protection of minors victims of violence, such as the offence of abduction and holding of a minor abroad; protection decrees against family abuses and reporting obligations by Social Services; Law Enforcement Authorities and health professionals in relation to any act of violence against women or minors, entailing no violation of professional secrecy (Para 48, NR)

CRC was concerned about the lack of any concrete statistical data on cases of child abuse and neglect (Para 16, Compilation)

See Recommendations, CRC (16)

Trafficking/sexual exploitation/violence against children

Slavery and slave trade are prohibited by the Criminal Code, which criminalises the acts of reducing someone in slavery and trading and trafficking in slaves. Moreover, other forms of reduction in slavery are criminalised, namely kidnapping, violation of sexual freedom, sexual abuse of minors or consenting incapable persons, sexual harassment, kidnapping with the purpose of engaging in sexual acts and corruption of minors. These provisions have been further supplemented by Law No. 61 of 30 April 2002 aimed at eradicating sexual exploitation of minors. San Marino has ratified the Supplementary Convention on the abolition of slavery, slave trade and practices comparable to slavery, as well as ILO Conventions No. 29 on forced labour, No. 105 on the abolition thereof and No. 182 on the worst forms of child labour (Para 85, NR). Also with a view to effectively facing these phenomena (trafficking), the State organises training courses on the respect and protection of human rights destined to judges, lawyers and all San Marino law enforcement agencies (Para 87, NR)

In 2006, the ILO Committee of Experts noted that the Penal Code and the Act for the repression of the sexual exploitation of minors No. 61 of 2002, provide for the prohibition of slave trading and trafficking, child prostitution, child pornography and forced labour (Para 16, Compilation)

Suggested Questions and Recommendations

CRC

§ Undertaking studies to assess the prevalence and nature of violence against children and develop a comprehensive plan of action, based on these studies, for the prevention of and intervention in cases of child abuse and neglect, including the provision of services for recovery and social reintegration of victims (Para 16, Compilation)

CESCR

§ To adopt structured measures to combat HIV/AIDS. (Para 31, Compilation)

The HR Committee

§ The adoption of a comprehensive antidiscrimination legal framework which expressly indicates all those grounds of discrimination that are presently subsumed under the notion of "personal status" (Para 11, Compilation)

JS1

- § That San Marino take legislative measures to impose appropriate criminal penalties for violence, threats of violence, incitement to violence and related harassment, based on sexual orientation or gender identity (Para 14, Summary)
- § That San Marino should take all necessary legislative, administrative and other measures to ensure that no family maybe subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members, including with regard to family- related social welfare and other public benefits, employment and immigration (Para 21 , Summary)