

CRI(2018)1

# **ECRI REPORT ON SAN MARINO**

## **(fifth monitoring cycle)**

Adopted on 6 December 2017

Published on 27 February 2018

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## FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

**The following report was drawn up by ECRI under its own responsibility. It covers the situation up to 22 June 2017; except where expressly indicated, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.**





## SUMMARY

**Since the adoption of ECRI's fourth report on San Marino on 21 March 2013, progress has been made in a number of fields covered by the report.**

The Criminal Code has been amended to include gender identity among the prohibited grounds for discrimination or violence or incitement to commit such acts, as well as among the aggravating circumstances in sentencing for criminal offences.

The police authorities have put in place a method for collecting data relating to racist incidents or offences both for cases of hate speech and for crimes of racist, homophobic or transphobic violence.

A draft code of conduct for Members of Parliament providing for penalties in the case of use of hate speech is currently under consideration with a view to possible adoption.

A law governing media ownership and the profession of media operators has been in force since December 2014.

San Marino signed the Council of Europe Convention on Cybercrime in March 2017 and its additional Protocol in May 2017.

Access to naturalisation is now governed by ordinary legislation and no longer by extraordinary legislation.

The review, in 2015, of the legislation on the length of stay and of work permits for non-nationals has reduced job insecurity for foreign workers and, in particular, for private carers.

**ECRI welcomes these positive developments in San Marino. However, despite the progress achieved, some issues continue to give rise to concern.**

San Marino still has no criminal legislation prohibiting discrimination on the grounds of language or colour, nor does it have comprehensive civil and administrative legislation against racial discrimination or an independent body to combat racism, xenophobia, antisemitism and intolerance at the national level.

The public, in particular potential victims of hate speech, seem not fully informed of the rights and remedies provided for by law.

Non-nationals residing in San Marino do not have voting or eligibility rights in local elections.

Long-term Italian residents in San Marino who do not wish to renounce their Italian nationality do not have access to San Marinense citizenship through naturalisation.

Same-sex couples do not have the right to marry or to obtain another form of legal recognition of their relationships in San Marino.

**In this report, ECRI requests that the San Marinense authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.**

Criminal law should be amended to include colour and language among the prohibited grounds for discrimination; it should also prohibit violence or incitement to commit such acts and consider them as aggravating circumstances in sentencing for criminal offences.

Comprehensive civil and administrative legislation prohibiting racial discrimination in all areas of life should be enacted.

San Marino should set up by law an independent specialised body to combat racism and racial discrimination at national level.

The authorities should do more to raise awareness among the population, and particularly potential victims of this type of offence, of the criminal law provisions

relating to racism and racial discrimination, as well as of the remedies provided for by law.

ECRI recommends that the participation of foreign residents in the political life of San Marino be promoted by granting them voting and eligibility rights in local elections.\*

San Marino should review the provisions governing the acquisition of San Marinese nationality through naturalisation in order to introduce more flexibility regarding dual nationality.

Finally, ECRI recommends that the San Marinese authorities begin, as soon as possible, the process of adopting legislation governing same-sex relationships.\*

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\* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

## FINDINGS AND RECOMMENDATIONS

### I. Common topics

#### 1. Legislation against racism<sup>1</sup> and racial discrimination<sup>2</sup>

##### - General legal framework

1. The Declaration on Citizens' Rights and the Fundamental Principles of the San Marino Legal Order is the law which serves as the constitutional text.<sup>3</sup> Article 4 of the Declaration provides that "All are equal before the law without distinctions relating to gender or personal, economic, social, political or religious circumstances. [...] The Republic guarantees equal social dignity and equal protection of rights and freedoms."
2. ECRI recommended in its last two reports (2007 and 2013) that explicit reference be made in Article 4 of the Declaration to the grounds for discrimination listed in its General Policy Recommendation (GPR) No. 7,<sup>4</sup> paragraph 2. To date, no amendment has been made to the Declaration in response to ECRI's recommendation.
3. According to the authorities, the lack of specific reference to all forms of discrimination does not affect protection against racism and intolerance in San Marino. They consider that the grounds for discrimination listed in GPR No. 7 are covered by the "personal circumstances" mentioned in Article 4 of the Declaration. Moreover, the provisions of international law, such as the prohibition of discrimination included in Article 14 of the European Convention on Human Rights (ECHR) and its Protocol No. 12,<sup>5</sup> take precedence over provisions of domestic law,<sup>6</sup> and are directly applied in domestic case law.<sup>7</sup> Finally, San Marino did not want an exhaustive list of fundamental rights, as it preferred an open and flexible constitution whose content could adapt to developments in international law.
4. For the reasons outlined in its 3rd and 4th reports (paragraphs 11-12 and 18-19 respectively), ECRI still considers that explicit reference to the grounds for discrimination listed in its GPR No. 7 would further improve protection against discrimination in the fields covered by its mandate.
5. ECRI reiterates its recommendation to the authorities that they supplement Article 4 of the Declaration on Citizens' Rights and the Fundamental Principles of the San Marino Legal Order with an explicit mention of the grounds for discrimination listed in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

##### - Criminal law

6. Article 179 *bis* of the Criminal Code penalises a) the dissemination by any means of ideas based on superiority or racial or ethnic hatred, b) incitement to commit

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<sup>1</sup> According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.

<sup>2</sup> According to ECRI's GPR No. 7, "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

<sup>3</sup> *Dichiarazione dei diritti dei cittadini e dei principi fondamentali dell'ordinamento Sammarinese, Decreto 8 luglio 2002, n. 79.*

<sup>4</sup> [General Policy Recommendation No. 7](#): National legislation to combat racism and racial discrimination.

<sup>5</sup> San Marino ratified Protocol No. 12 to the ECHR on 25 April 2003.

<sup>6</sup> Article 1 of the Declaration provides that "International agreements on the protection of freedoms and human rights [...] shall prevail in the case of incompatibility with national legislation".

<sup>7</sup> See *Sentenza causa civile n 647 2012*, page 16 et seq.

discriminatory acts on the grounds of race, ethnic or national origin, religion, sexual orientation or gender identity,<sup>8</sup> c) incitement to violence on the same grounds, d) committing such discriminatory acts or, e) violence.<sup>9</sup> The above article does not mention colour or language among the prohibited grounds for discrimination, or violence or incitement to commit such acts, in accordance with GPR No. 7, paragraph 18.

7. Under Articles 183, 184 and 185 of the Criminal Code, public insults, defamation and threats against a person or grouping of persons are ordinary offences punishable by fines. They do not constitute separate criminal offences when committed against a person or grouping of persons on the grounds of their race, colour, language, religion, nationality or their national or ethnic origin, in accordance with the recommendations of GPR No. 7, paragraph 18 b) and c).
8. This paragraph of GPR No. 7 must not be interpreted as being in contradiction with the increasingly frequent recommendation by international organisations to decriminalise defamation in order to sanction it exclusively through civil law provisions.<sup>10</sup> Despite this, ECRI is of the opinion that defamation should continue to be a criminal offence when committed against a person or a grouping of persons with a racist motivation. This is necessary in order to punish the use of hate speech with specific provisions.
9. ECRI also notes other shortcomings in the criminal legislation: Article 4 of Law No. 138 of 5 September 2014 expressly penalises the public condoning of the crime of genocide, but not, at least expressly, the public denial, trivialisation, justification, with a racist aim, of the crimes of genocide, crimes against humanity or war crimes (GPR No. 7, paragraph 18 e).
10. Moreover, there are no specific provisions which penalise the creation or the leadership of groups which promote racism, support for such groups or participation in their activities (GPR No. 7, paragraph 18 g). ECRI considers that these acts are different from what is provided for in Article 179 *bis* of the Criminal Code, which makes it a punishable offence to disseminate ideas based on superiority or racial or ethnic hatred. Finally, the Criminal Code does not criminalise racial discrimination in the exercise of public offices or of occupations.
11. Article 90, paragraph 1, subparagraph 1, of the Criminal Code makes discrimination or violence on the grounds of race, ethnic origin, nationality, religion, sexual orientation or gender identity an aggravating circumstance in sentencing for criminal offences. However, neither colour nor language is mentioned as a prohibited ground for discrimination.
12. As there is no case law on breaches of the above-mentioned articles of the Criminal Code, in particular Articles 179 *bis* and 90, it is impossible to know how the courts interpret and apply them, and whether the penalties provided for by the law are effective, proportionate and dissuasive as recommended in paragraphs 12 and 23 of GPR No. 7.
13. ECRI recommends that the criminal legislation be amended in line with its General Policy Recommendation No. 7 to include colour and language among the prohibited grounds for discrimination; violence or incitement to commit such acts should be prohibited; they should also be aggravating circumstances when

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<sup>8</sup> Gender identity was recently introduced by Law No. 57 of 6 May 2016 which amended Article 179 *bis* of the Criminal Code.

<sup>9</sup> The text of this law can be consulted in Italian at: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/--protrav/---ilo\\_aids/documents/legaldocument/wcms\\_128030.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/--protrav/---ilo_aids/documents/legaldocument/wcms_128030.pdf).

<sup>10</sup> See [Study on the alignment of laws and practices concerning defamation](#), CDMSI(2012)Misc11Rev2. See also, Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to San Marino, from 9 to 10 June 2015. <http://www.coe.int/en/web/commissioner/country-reports-by-country>.

determining sentences for criminal offences; separate criminal offences should apply when public insults, defamation or threats are committed against a person or a grouping of persons on account of their race, colour, language, religion, nationality or national or ethnic origin, as well as their sexual orientation or gender identity; the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes should be expressly criminalised; specific provisions should be introduced criminalising the creation or leadership of groups which promote racism, support for such groups and participation in their activities; and racial discrimination in the exercise of public offices or of occupations should be penalised.

- **Civil and administrative law**

14. There are civil and administrative provisions against discrimination in the employment sector,<sup>11</sup> which cover discrimination on the grounds of religious beliefs, political or other opinion and membership of a trade union. There are also provisions reaffirming, in a very general manner, the principle of equality of treatment without discrimination on various grounds (notably, race and nationality) in some sectors such as education,<sup>12</sup> sport,<sup>13</sup> access to health care,<sup>14</sup> the treatment of prisoners<sup>15</sup> and the statutes of the medical professions.<sup>16</sup> To date, there have been very few cases where one or the other of these provisions has been applied.
15. In the light of the recommendations in GPR No. 7, paragraphs 7-17, ECRI notes that there are no civil law norms explicitly establishing segregation, discrimination by association and the announced intention to discriminate as forms of discrimination. Instructing other persons to discriminate, inciting other persons to discriminate or aiding other persons to discriminate is considered a crime, in particular under Article 179 *bis* of the Criminal Code, but these forms of discrimination are not prohibited under civil law. Equally, according to the information received, harassment is not prohibited under civil law, but solely under the Criminal Code.<sup>17</sup> Civil law also does not place any express obligation on public authorities to promote equality and to prevent discrimination when carrying out their public functions. Finally, civil law norms do not provide for a shared burden of proof in direct or indirect discrimination cases.<sup>18</sup>
16. As concerns the obligation to respect and promote non-discrimination in public contracts, the law<sup>19</sup> provides for a register of suppliers and providers of goods and services in public administration. Entrepreneurs with criminal records, such as for example, final sentences for discrimination or unequal treatment of employees, are excluded from this register. They cannot bid for tenders for public procurement.
17. Regarding the express possibility of amending or declaring null and void any discriminatory provisions in contracts/regulations (GPR No. 7, paragraphs 13/14), prior oversight is carried out by notaries when contracts or regulations are

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<sup>11</sup> Article 14 of the Law on Employment, Article 7 of the Law concerning disciplinary sanctions and dismissal, Article 89 of the Organic Law on civil servants.

<sup>12</sup> Article 1 of Law No. 60 of 30 July 1980 and Article 1 of Law No. 21 of 12 February 1998.

<sup>13</sup> Article 7 of Law No. 32 of 13 March 1997.

<sup>14</sup> Law No. 43 of 28 April 1989.

<sup>15</sup> Article 1 of Law No. 44 of 29 April 1997.

<sup>16</sup> Decree No. 101 of 5 October 1999 and Decree No. 32 of 18 March 1996.

<sup>17</sup> Article 181 *bis* "Atti persecutori - Stalking-Mobbing".

<sup>18</sup> A shared burden of proof means that the complainant should establish facts allowing for the presumption of discrimination, whereupon the onus shifts to the respondent to prove that discrimination did not take place.

<sup>19</sup> *Decreto Delegato 2 marzo 2015 n. 26.*

registered. The judicial authorities may also be asked to declare null and void any discriminatory provisions included in internal regulations, rules governing associations, independent professions and workers' and employers' organisations, as well as in contracts or individual or collective agreements.

18. Finally, the law does not place a specific obligation on the authorities to suppress public financing of organisations, including political parties, which promote racism, or to dissolve them.
19. On the basis of the above findings, ECRI concludes that San Marino does not have comprehensive civil and administrative legislation prohibiting racial discrimination in all areas of life.
20. ECRI recommends that the authorities supplement civil and administrative legislation in line with its General Policy Recommendation No. 7, in particular by explicitly establishing as forms of discrimination prohibited by civil law, segregation, discrimination by association, the announced intention to discriminate and harassment, as well as instructing other persons to discriminate, inciting other persons to discriminate or aiding other persons to discriminate. ECRI moreover recommends that the law provide for a shared burden of proof in discrimination cases and place an obligation on authorities to promote equality and to suppress public financing of organisations, including political parties, which promote racism, or to dissolve them.

- **National specialised bodies**<sup>20</sup>

21. In its Conclusions in respect of San Marino on the implementation of the recommendations of the 4th report subject to interim follow-up,<sup>21</sup> ECRI had already drawn the authorities' attention to the fact that the Equal Opportunities Commission, a body which in theory could address issues within ECRI's competence, was not in conformity with the guidelines set out in its GPR No. 2 on specialised bodies. In particular, ECRI found that the Commission did not have express terms of reference or powers to combat racism and racial discrimination or the means to implement them.<sup>22</sup>
22. The Commission comprises members appointed by Parliament (Consiglio Grande e Generale). Since the Parliamentary elections held at the end of 2016, the composition of the Commission has been renewed by the new Parliament. ECRI, which met the new members of the Commission, noted their resolve to improve the capacity of their institution to deal with issues pertaining to racism and intolerance. For their part, the authorities also gave assurances that a permanent office and, if possible, staff, would be put at the Commission's disposal.
23. ECRI acknowledges these positive developments. However, it notes that to date, the Commission does not have its own premises, budget or staff and that its members continue to work on a voluntary basis. Moreover, no legislation expressly tasking the Commission with combating racism and racial

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<sup>20</sup> Independent bodies expressly tasked with combating, at national level, racism, xenophobia, antisemitism, intolerance and discrimination on the grounds of, for example, ethnic origin, skin colour, nationality, religion and language (racial discrimination).

<sup>21</sup> Conclusions on the implementation of the recommendations of the 4th report in respect of San Marino subject to interim follow-up, page 5, [http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/San\\_Marino/SMR-IFU-IV-2016-027-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/San_Marino/SMR-IFU-IV-2016-027-ENG.pdf)

<sup>22</sup> Law No. 97 of 2008 on violence against women and gender-based violence established an Equal Opportunities Authority, which began operation in January 2009. It comprises three members appointed by the Consiglio Grande e Generale and chosen from among legal experts, representatives of non-governmental organisations dealing with gender equality, and experts in communication and psychology. The Authority is distinct from the Equal Opportunities Commission; it does not take over the latter's responsibilities except for the specific task of combating gender-based violence; it does not deal with discrimination based on other grounds.

discrimination has been adopted yet despite ECRI's recommendations to that effect in its last two reports. ECRI therefore concludes that San Marino does not yet have an independent specialised body to combat racism, xenophobia, antisemitism and intolerance at national level within the meaning of its GPR Nos. 2 and 7.

24. ECRI recommends that the San Marinese authorities establish by law an independent specialised body to combat racism and racial discrimination at national level. The law should include within the competences of such a body assistance to victims; investigation powers; the right to initiate, and participate in, court proceedings; monitoring of legislation and advice to the legislative and executive authorities; awareness-raising among society of the issues of racism and racial discrimination; and promotion of policies and practices aimed at ensuring equal treatment. When examining these issues, ECRI invites the authorities to draw on the basic principles set out in its General Policy Recommendations Nos. 2 and 7.
25. ECRI recommends, if the San Marinese authorities decide to reform the Equal Opportunities Commission as an independent specialised body to combat racism and racial discrimination, that the Commission should have at its disposal sufficient financial and human resources to enable it to adequately and independently fulfil the tasks which will be conferred on it by law.

## 2. Hate speech<sup>23</sup>

### - Data

26. ECRI recommended in its last two reports that the systems for monitoring manifestations of racism be improved; that relevant information broken down according to categories such as ethnic or national origin, religion, nationality and language be collected; and that data concerning manifestations of racism and racial discrimination be generated.
27. During its contact visit in 2012, ECRI was informed that the Gendarmerie was going to establish a computerised system for registering all reports made to law enforcement institutions (whether they concerned an offence or not). The information received during the last visit indicates that the authorities concerned have a systematic and coherent system for collecting data on racist incidents and racist offences (both for cases of hate speech and for the crimes of racist, homophobic and transphobic violence). According to the authorities, the absence of such data is due solely to the fact that there are no cases of hate speech (or racist violence) in San Marino.
28. In its 4th report, ECRI considered that the general climate of society in San Marino was one of dialogue and tolerance. The latest information received suggests that the peaceful climate noted by ECRI five years ago still prevails. However, ECRI was informed by civil society representatives and trade unions that latent prejudice (already noted in the 4th report) persists in some sectors of San Marinese society against non-nationals, in particular Italians, and especially transfrontier workers.
29. ECRI therefore considers that the authorities should ensure that the collection of data on hate speech is not limited to cases within the purview of the justice sector. In general, the authorities should improve the systems used to monitor manifestations of xenophobia and intolerance in San Marino, with the assistance

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<sup>23</sup> According to GPR No. 15 on combating hate speech, "hate speech" entails the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatisation or threats in respect of a person or group of persons and any justification of all the preceding types of expression on account of "race", colour, descent, national or ethnic origin, age, disability, language, religion or beliefs, sex, gender identity and sexual orientation, other personal characteristics or status.

of trade unions and civil society. Accordingly, ECRI considers that the recommendation made to the authorities in its 4th report on this matter is still valid.

30. ECRI reiterates its recommendation to the San Marinese authorities that they improve the systems used to monitor manifestations of xenophobia and intolerance in San Marino. It recommends that the authorities produce data based on the perceptions of potential victims in accordance with its General Policy Recommendations No. 4, which provides detailed guidance on how to carry out these surveys, and No. 15 on combating hate speech.

- **Political discourse**

31. Only very few cases of populist and xenophobic discourse were observed during the electoral campaign for the last parliamentary elections. This applied, for example, to the electoral list called "the list of free persons" comprising several lists with rather suggestive names such as "no-migranti" (no to migrants) or characterised by a desire to reaffirm national identity against Italy, such as "prima il lavoro ai Sammarinesi" (work for San Marinese first) no "multe dall'Italia" (no fines from Italy), or "no Europa" (no to Europe).

32. Although these lists did not make significant electoral gains (2.13% of the votes in the first round), they reflect a certain populist trend in the political debate in the Republic. Steps should therefore be taken to encourage self-regulation by political parties, elected bodies and cultural associations in order to prevent the use by their representatives of offensive or hate speech. In the most extreme cases of hate speech, there should be the possibility of adopting legal provisions enabling the authorities to dissolve political parties and organisations which use hate speech.

33. ECRI was informed that a draft code of conduct for Members of Parliament which provides for suspension and other penalties in the case of hate speech is currently under consideration with a view to possible adoption.

34. ECRI recommends that the San Marinese authorities promote the self-regulation of public and private institutions, including elected bodies and political parties, as a means of combating the use of hate speech, while also encouraging the adoption of appropriate codes of conduct which provide for suspension or other penalties for breaches of their provisions, as well as the setting up of effective reporting channels. ECRI invites the authorities to draw on the basic principles set out in its General Policy Recommendation No. 15 on combating hate speech when examining these issues.

35. ECRI recommends that, while respecting the right to freedom of association, the authorities provide for the possibility of withdrawing all financial and other forms of support by public bodies from political parties and organisations which use hate speech or fail to sanction its use by their members, and also provide for the possibility of prohibiting or dissolving these organisations. ECRI invites the authorities to draw on the basic principles set out in its General Policy Recommendation No. 15 on combating hate speech when examining these issues.

- **Media and Internet**

36. A blog which has for some time presented itself as an online newspaper called "Giornalesm.com news" has published a number of sensationalist articles, for example on migrants. These articles have subsequently proved to be false or grossly exaggerated.<sup>24</sup> Another newspaper, "La Tribuna", published an interview

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<sup>24</sup> At the end of 2015, this online newspaper published news about a busload of "refugees" who had arrived in San Marino, but in reality they were tourists from the Middle East [www.giornalesm.com](http://www.giornalesm.com) .



with a priest in which he accused a “zingaro” (a Gypsy) of theft, with the risk of implicitly conveying a stereotypical image of Roma as a people inclined to steal.<sup>25</sup>

37. The lack of regulation of the media sector and journalists has long been a problem in San Marino. Accordingly, ECRI recommended that, in full compliance with the principle of media independence, the media be encouraged to set up a non-judicial mechanism to deal with complaints against them in cases of discrimination, among others.
38. Since December 2014, there has been a law governing the area of media ownership and the profession of media operators.<sup>26</sup> However, online publications, such as blogs or messages on social media operated or written by individuals, associations or parties are not considered as being part of the press and are therefore not covered by this legislation.
39. For the first time, the new law provides for the establishment of a professional union of media operators, the “Consulta per l’informazione”, and an Office of the Press Ombudsman, “Garante per l’informazione”. A code of conduct for media professionals, adopted on 31 July 2017 takes into consideration, notably, the protection of minors and vulnerable groups, the protection of individual privacy and fundamental rights, and the need to make a clear distinction between facts and opinions. The code provides for disciplinary sanctions in the event of its breach.
40. Even though the adoption of this law of 5 December 2014 must be considered a positive development, ECRI shares the criticism made by the Council of Europe Commissioner for Human Rights in his 2015 report. Among other things, the Commissioner criticised the absence of journalists’ representatives within the Office of the Press Ombudsman,<sup>27</sup> which is in charge of ensuring compliance with the code of ethics. The representatives of the new Government formed after the 2016 elections informed ECRI that amendments to the legislation were under consideration in order to address the above criticism.

#### - **Sport**

41. As concerns sport, Law No. 32 of 13 March 1997 established the San Marino National Olympic Committee (CONS), which is in charge of organising and promoting sport in San Marino. Article 7 of the law provides that its activities must be free of any religious, political, racial or economic influence. ECRI is not aware of any laws which provide for measures to counter practices of incitement to hatred during sports events and competitions. San Marino has not ratified the Council of Europe Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches.<sup>28</sup>
42. However, ECRI has not noted any racist incidents, including cases of racist speech in sports. Nonetheless, several sports initiatives against racism have come to ECRI’s notice. For example, in May 2013, the national football team played a friendly match against the Italian team with the slogan “Cartone rosso al razzismo” (Show Racism the Red Card).

#### - **Homophobic and transphobic hate speech**

43. The authorities have provided no information on cases of homophobic or transphobic hate speech. According to the above-mentioned report by the Council of Europe Commissioner for Human Rights, the climate of opinion

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<sup>25</sup> “La Tribuna”, article of 21 October 2014.

<sup>26</sup> Law No. 211 of 5 December 2014, “Editoria e professione degli operatori d’informazione”

<sup>27</sup> Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to San Marino, from 9 to 10 June 2015. <http://www.coe.int/en/web/commissioner/country-reports-by-country>

<sup>28</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007a086>

towards LGBT persons has evolved significantly in a country where homosexual acts were crimes punishable under the Criminal Code until 2004. The section on LGBT will deal with legislative issues and the climate of opinion.

- **Responses to hate speech**

44. The authorities provided ECRI with a list of activities carried out to improve intercultural and interfaith dialogue and to combat racism. A high-level seminar on freedom of religion and education was organised by San Marino at the Council of Europe in April 2017. Regarding specific measures against hate speech, ECRI is aware of the participation of civil society representatives in events organised in San Marino and elsewhere.
45. However, these praiseworthy activities remain isolated (seminars, meetings with political or religious leading figures, etc.) and do not appear to be sufficient to prevent potential cases of hate speech and racist violence from occurring in San Marino. The public as a whole and in particular potential victims of hate speech and racist, homo/transphobic violence should be fully informed of the rights and the remedies provided for by law, as already recommended by ECRI.
46. ECRI moreover recommended in its 4th report, as other international organisations had done,<sup>29</sup> that the authorities offer specific training to persons in charge of applying the provisions of the criminal and civil codes relating to racism and racial discrimination.
47. ECRI recommends that the authorities raise awareness among the public, and particularly potential victims of this type of offence, of the criminal legislation regarding racism and racial discrimination, as well as of the remedies provided for by law.
48. ECRI reiterates its recommendation that the authorities offer judges, lawyers and the police training on the criminal legislation in place relating to racism and racial discrimination.
49. Since 2008, a series of laws on organised crime and financial crimes have brought domestic legislation closer to the requirements of the Council of Europe Convention on Cybercrime.<sup>30</sup> Other significant amendments introduced by Law No. 114 of 26 August 2016 on computer crime finally enabled San Marino to sign this instrument on 17 March 2017, as well as on 19 May 2017 its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.<sup>31</sup>
50. ECRI recommends that San Marino complete as soon as possible the legislative process for ratifying the Council of Europe Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

### **3. Racist and homophobic/transphobic violence**

51. According to the OSCE/ODIHR reports on hate crimes, San Marino has never provided statistics concerning these crimes. The authorities have explained this absence of data concerning offences involving racist violence with the fact that there have been no such offences thus far.
52. However, ECRI considers that the public should be aware of the available remedies and that those in charge of applying the law should receive more training on issues pertaining to the fight against racism and racial discrimination.

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<sup>29</sup>United Nations Human Rights Committee, Concluding observations (2015) CCPR/C/SMR/CO/3 .

<sup>30</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680081561>.

<sup>31</sup> The Protocol broadens the scope of the Convention, including its provisions relating to substantive law, criminal procedure and international co-operation, so as also to cover the offences of racist or xenophobic propaganda, <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008160f> .

Hence the need to adopt, *mutatis mutandis*, the awareness-raising and training measures already mentioned in the paragraphs on hate speech.

#### 4. Integration policies

##### - Data

53. As of September 2016, there were 5 257 legally resident non-nationals in San Marino (i.e. foreigners with a residence permit or stay permit) out of a population of 33 562 inhabitants, i.e. approximately 15% of the population. Despite their wide-ranging origins (68 countries), almost 85% of non-nationals are Italians. The remainder are Romanians (148), Ukrainians (77), Argentinians (60), Albanians (52), Russians (44), Brazilians (38), Poles (34) and Cubans (26), plus a small number of nationals of other countries.

##### - Policies

54. ECRI is not aware of any integration policies for migrants. However, there is a series of measures for non-Italian foreigners aimed at developing language learning through school education at all levels, including through evening classes for adults. A decree promoting multilingualism has moreover been adopted to that end.<sup>32</sup>

##### - Legislation

55. With the exception of electoral laws, San Marinense legislation gives non-nationals and nationals the same social rights: access to employment, housing, social assistance, health, education and school, economic activities, etc. In accordance with Article 3 of Law No. 118/2010 as last amended in 2015, non-nationals present in the territory of the Republic of San Marino “enjoy the fundamental rights enshrined in national legislation, international conventions in force and the generally recognised principles of international law” and “are treated in the same way as San Marinense citizens with regard to the judicial protection of rights and legitimate interests”. Moreover, the law guarantees that information concerning foreigners is made available to them in a language other than Italian that they are capable of understanding. According to the authorities, these provisions are sufficient to prohibit discrimination against non-nationals.

56. However, ECRI noted in its 4th report, that there was a difference in the treatment of resident San Marinense with no remunerated activity (who are not dependent on a family member benefiting from medical cover), who enjoyed free health care, and resident foreigners or those with stay permits without any remunerated activity (who are not dependent on a family member benefiting from medical assistance), who had to pay contributions (quota capitaria) to the San Marinense health system.

57. This difference in treatment still exists, even though the authorities have slightly amended the provisions of the *quota capitaria* by exempting from its payment foreign residents who are registered as job-seekers. The authorities are dealing with the problem with a view to abolishing the contributions payment requirement for all foreigners resident in the country or with stay permits.

58. ECRI recommends that the authorities pursue their efforts to guarantee, as soon as possible, equality of treatment in medical assistance between San Marinense and resident foreigners or those with stay permits.

59. In its 4th report, ECRI regretted that parliament had not taken into consideration, in Law No. 36 of 23 March 2009 amending the 1994 legislation on municipalities, its recommendation that the participation of resident foreigners in political life be

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<sup>32</sup> Decreto Delegato 27 novembre 2014 n. 194 - Sperimentazione di plurilinguismo nelle scuole sammarinesi <http://www.consigliograndeegenerale.sm/on-line/home/lavori-consiliari/verbali-sedute/scheda17139368.html> .

promoted by granting them voting and eligibility rights in local elections, in accordance with the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.

60. Unfortunately, nothing has changed in this area. ECRI's recommendation is therefore still valid, as is that regarding the ratification of the Convention. It is worth noting that in the meantime, San Marino has signed and ratified the European Charter of Local Self-Government (on 16 May 2013 and 29 October 2013 respectively).

61. ECRI reiterates its recommendation that non-nationals residing in San Marino be granted voting and eligibility rights in local elections (Giunte di Castello), in accordance with the principles laid down in the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.

62. ECRI recommends that San Marino sign and ratify the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.

#### - **Law on nationality**

63. Access to naturalisation, an important factor for the integration of the large number of long-term residents in San Marino, is now governed by an ordinary law (Law No. 38 of 22 March 2016) and no longer by extraordinary legislation. ECRI, which had criticised the fact that citizenship was granted by means of extraordinary legislation, especially because of the legal uncertainty created by such an approach, is pleased to note this important change, which fully implements one of the recommendations made in its 4th report.

64. However, it should be noted that the 2016 ordinary law, with some exceptions, still continues to require a long period of uninterrupted residence in order to acquire citizenship.<sup>33</sup> ECRI recommended in its 4th report that the authorities bring the length of residence necessary to apply for naturalisation into line with the standards set out in the European Convention on Nationality,<sup>34</sup> even though San Marino is not a party to the convention.

65. The law also requires that any other citizenship be renounced within a year of the oath-taking ceremony for the acquisition of San Marinese nationality. This obligation is not contrary to the European Convention on Nationality. ECRI nonetheless recommended in its 3rd report that more flexibility be introduced in relation to dual nationality. ECRI considers that such flexibility could make it easier for long-term Italian residents who do not wish to renounce their Italian nationality to be naturalised, and would bring the law into line with the provisions of Article 14 of the above-mentioned convention, which require States to allow "children having different nationalities acquired automatically at birth to retain these nationalities".

66. ECRI recommends that the San Marinese authorities review the provisions governing the acquisition of San Marinese nationality through naturalisation in order to reduce the length of residence required to apply for naturalisation. It also recommends that more flexibility be introduced as concerns dual nationality when acquiring San Marinese nationality.

#### - **Italian transfrontier workers**

67. San Marino is an enclave in the territory of Italy, with which it shares a language and ethnic origins. The two States and their citizens have strong political, economic, cultural and personal ties. Between 2008 and 2014 these ties were disrupted by a diplomatic crisis between the two countries, which mainly affected the 5 000 Italian transfrontier workers, regarding problems of double taxation (see

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<sup>33</sup> 25 years of continuous residence.

<sup>34</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f2c8>.

4th report, paragraphs 54 et seq.). The dispute should have been settled in 2012 with a convention and a protocol on the taxation of transfrontier workers (see 4th report, paragraph 56), but Italy did not ratify the document because the San Marinese legislation was allegedly inadequate as concerns bank secrecy, direct co-operation between financial authorities, the legislation on fiscal offences, companies' residence for tax purposes, etc. Most of the problems concerning the double taxation of Italian transfrontier workers were finally resolved with the ratification of the agreement by Italy in 2014, which gave effect to the above-mentioned convention and protocol. A partial reimbursement of the taxes paid unduly in San Marino because of double taxation and a general reform of direct taxation also helped to resolve the problem.

68. Despite an improvement in the situation of transfrontier workers concerning double taxation, other problems remain, such as the fact that they cannot be hired on permanent contracts. This situation increases the vulnerability of this category of workers with regard to unemployment. The Authorities informed ECRI that in September 2017 a law<sup>35</sup> was passed to further support economic development which, among others, will improve the precarious conditions of transfrontier workers.

- **Female migrant workers from Central and Eastern Europe**

69. ECRI considered in its March 2016 Conclusions<sup>36</sup> that the amendment in 2015 of the legislation on length of stay and work permits for foreigners<sup>37</sup> was satisfactory. This also concerns female migrant workers from Central and Eastern Europe who are employed as private carers (*badanti*). The authorities and trade unions have taken steps to facilitate co-operation between *badanti* and the administrative services they use. A single government office (Sportello Unico) now deals with all the relevant administrative formalities and measures for the *badanti* and their employers.

70. However, the Commissioner for Human Rights' 2015 report on San Marino and the 2014 report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (GRETA)<sup>38</sup> noted that these women remain in a vulnerable situation. This is primarily due to the fact that most *badanti* live with their employers. While social services check their work and living conditions of the *badanti* and offer them training courses, it appears that these courses mainly concern their competencies and qualifications in carrying out their work. Civil society representatives have also stressed the risk that some of these persons may be employed illegally through unlawful channels, with the possibility that they may be exploited and abused.<sup>39</sup>

71. Steps should be taken to ensure that these female migrant workers receive information on their rights and on how to obtain assistance in the case of problems, as well as on the remedies provided by the law in the case of discrimination. On this point, ECRI draws attention to its recommendation in paragraph 47.

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<sup>35</sup> Law No. 115/2017.

<sup>36</sup> Conclusions on the implementation of the recommendations in respect of San Marino subject to interim follow-up, page 5, [http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/San\\_Marino/SMR-IFU-IV-2016-027-ENG.pdf](http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/San_Marino/SMR-IFU-IV-2016-027-ENG.pdf).

<sup>37</sup> This involved amendments made in 2015 to Law No. 118/2010 for the benefit of non-resident workers, which extended the length of stay permits conferring entitlement to work, from 11 to 12 months, renewable for three consecutive years.

<sup>38</sup> <https://rm.coe.int/168063bdcf>.

<sup>39</sup> <http://www.super.sm/strane-presenze-in-corsia/>.

- **Muslim community and Jehovah's Witnesses**

72. For some time, there has been an organisation of Muslims in San Marino called Al-Nur. This community uses as a prayer hall premises in a shopping centre in Galdicciolo (a small village in San Marino). During the 2016 Ramadan, Al-Nur had to leave the premises, apparently owing to the lack of a permit required to use them as a place of worship for practising their religion. The association instead used premises offered by private individuals and the Catholic Church. ECRI was informed that in the meantime this Muslim community has started using the premises in the shopping centre again.
73. In this context, ECRI would refer to its GPR No. 5 on combating intolerance and discrimination against Muslims, requesting that particular attention be directed towards removing unnecessary legal or administrative obstacles to the construction of appropriate places of worship for the practice of Islam.
74. There are approximately 200 Jehovah's Witnesses in San Marino, they are organised in an association and have a minister of religion who is recognised by the authorities. They have built their headquarters and place of worship in Borgo Maggiore after receiving authorisation from the authorities. They do not have any particular problems socially or with the other religious communities, with whom they enjoy good relations. However, the fact that Jehovah's Witnesses are registered as an association rather than as a religion leads to the application of administrative rules specific to companies/firms which are ill-suited to religious practice. For example, the funds raised through alms should be registered and taxed as an association.
75. State schools provide Roman Catholic religious instruction, but pupils may be exempted from it if they so wish. According to information received by ECRI, parents who are Jehovah's Witnesses always request exemptions for their children. However, there are no alternative courses for exempted children.
76. In view of the presence in San Marino of at least two non-Catholic religious communities organised as associations, it would be useful to provide for the establishment of a consultative body for promoting a regular dialogue between the State and minority religious communities, in order to examine the practical problems that religious practice can create and to propose measures to solve them. While a three-day forum on interfaith dialogue has been held every year since 2016, this event cannot replace the institutional role of a consultative body.

## **II. Topics specific to San Marino**

### **1. Interim follow-up recommendations of the fourth cycle**

77. In its March 2016 "Conclusions on the implementation of the recommendations in respect of San Marino subject to interim follow-up", ECRI already examined the follow-up given to its interim recommendations to the authorities in its 4th report. The recommendation on the Equal Opportunities Commission has already been examined in paragraphs 21-25. The situation of female migrant workers from Central and Eastern Europe was examined in paragraphs 70-72.

### **2. Policies to combat discrimination and intolerance against LGBT persons<sup>40</sup>**

78. There is no detailed data on LGBT persons living in San Marino.<sup>41</sup> It is clear that without any information on the forms of discrimination or intolerance suffered by LGBT persons, there can be no sound basis for drawing up and implementing

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<sup>40</sup> For the terminology, see the definitions by the Council of Europe Commissioner for Human Rights in "Discrimination on grounds of social orientation and gender identity in Europe, 2011".

<sup>41</sup> Recommendation CM/Rec(2010)5 of the Council of Europe Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity indicates that personal data referring to a person's sexual orientation or gender identity may be collected where this is necessary for the performance of specific, lawful and legitimate purposes.



policies to address these issues. In this connection, ECRI reiterates its recommendation in paragraph 30, which must also apply to LGBT persons.

79. As indicated in paragraph 6 et seq., under Article 179 *bis* of the Criminal Code, incitement to and the commission of acts of discrimination or violence “related to sexual orientation or gender identity” are punishable by between six months and three years’ imprisonment. If an offence is committed with a motivation linked to sexual orientation or gender identity, this is considered an aggravating circumstance under Article 90 of the Criminal Code. Apart from these two provisions, there is no constitutional or other provision providing for equality before the law without distinction as to sexual orientation or gender identity, nor are there any civil or administrative provisions expressly prohibiting discrimination on these grounds in the areas of employment, access to goods and services, or any other field.
80. ECRI recommends that the authorities supplement legislation to protect persons from discrimination with provisions of civil and administrative law which expressly prohibit discrimination on grounds of sexual orientation or gender identity.
81. There are no specific legislative provisions for the legal recognition of changes of gender and names for transgender persons. The provisions of the 2006 law for the legal recognition of changes in identity particulars in public records assign this competence to registrars, but only to correct clerical errors. In other cases, such recognition is possible by judicial decision. There has only been one case of a judicial decision recognising an Italian decision to change the civil status of a transgender person. The San Marinese judge acknowledged that this decision by the Italian judicial authority was not in violation of San Marinese legal provisions.<sup>42</sup>
82. It should be noted that the Council of Europe Committee of Ministers in its Recommendation to member States CM/Rec (2010) 5 recommended that measures be taken to guarantee the full legal recognition of a person’s gender reassignment in all areas of life, in particular by making it possible to change name and gender in official documents in a quick, transparent and accessible way.
83. In his 2015 report on San Marino, the Council of Europe Commissioner for Human Rights recommended the introduction of the legal recognition of homosexual couples, in the form of a registered union or partnership. The Commissioner also called on the authorities to carry out awareness-raising actions to promote respect and equality for LGBT persons.
84. The authorities gave the ECRI delegation information on a series of measures aimed at promoting tolerance and mutual respect in all schools, without any discrimination based on sexual orientation or gender identity.
85. However, there have been no developments on the issue of the legal recognition of same-sex couples since the Commissioner’s 2015 report. In San Marino, same-sex couples do not have the right to marry or to obtain another form of legal recognition of their relationship. Moreover, they do not have the possibility of adopting children together.
86. However, Article 15 of Law No. 118/2010 provides for the possibility of granting a “permesso convivenza”, a residence permit for a foreign national which may be applied for by a San Marinese citizen or resident non-national who intends to live together in a conjugal relationship with that person.
87. In 2012, a popular petition (Istanza d’Arengo) had called for the deletion of the reference to “more uxorio” (like husband and wife) in Article 15 of the law on the ground that this was discriminatory on sexual orientation criteria. The aim of such

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<sup>42</sup> See *Sentenza 5 aprile 1996 causa civile n.301 1995*.

petition was to extend the possibility of issuing a “permesso convivenza” to a foreign partner in a same-sex couple wishing to live in San Marino. Parliament declared the petition admissible and Law No. 118 was therefore amended in 2015. However, rather than indicating that the expression “more uxorio” also comprises same-sex couples, the new paragraph *a bis*) of Article 15 provides that a residence permit may also be granted “to a foreigner, for cohabitation for the purposes of solidarity and mutual assistance”. Moreover, this type of cohabitation does not entail entitlement to any rights other than the granting of a “permesso convivenza”.

88. ECRI would draw attention to the judgement in *Oliari and others v. Italy*<sup>43</sup> by the European Court of Human Rights, which held in 2015 that Italy had breached Article 8 of the Convention (right to respect for private and family life) on account of the fact that same-sex couples could not have their relationships recognised by law in Italy at the time.

89. ECRI recommends that the San Marinense authorities begin as soon as possible the process for adopting legislation governing same-sex relationships.

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<sup>43</sup> Case of *Oliari and Others v. Italy*, applications nos. 18766/11 and 36030/11, 10 July 2015.



## **INTERIM FOLLOW-UP RECOMMENDATIONS**

The two specific recommendations for which ECRI requests priority implementation from the San Marinese authorities are the following:

- ECRI reiterates its recommendation that non-nationals residing in San Marino be granted voting and eligibility rights in local elections (Giunte di Castello), in accordance with the principles laid down in the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.
- ECRI recommends that the San Marinese authorities begin as soon as possible the process for adopting legislation governing same-sex relationships.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.



## LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 5) ECRI reiterates its recommendation to the authorities that they supplement Article 4 of the Declaration on Citizens' Rights and the Fundamental Principles of the San Marino Legal Order with an explicit mention of the grounds for discrimination listed in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.
2. (§ 13) ECRI recommends that the criminal legislation be amended in line with its General Policy Recommendation No. 7 to include colour and language among the prohibited grounds for discrimination; violence or incitement to commit such acts should be prohibited; they should also be aggravating circumstances when determining sentences for criminal offences; separate criminal offences should apply when public insults, defamation or threats are committed against a person or a grouping of persons on account of their race, colour, language, religion, nationality or national or ethnic origin, as well as their sexual orientation or gender identity; the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes should be expressly criminalised; specific provisions should be introduced criminalising the creation or leadership of groups which promote racism, support for such groups and participation in their activities; and racial discrimination in the exercise of public offices or of occupations should be penalised.
3. (§ 20) ECRI recommends that the authorities supplement civil and administrative legislation in line with its General Policy Recommendation No. 7, in particular by explicitly establishing as forms of discrimination prohibited by civil law, segregation, discrimination by association, the announced intention to discriminate and harassment, as well as instructing other persons to discriminate, inciting other persons to discriminate or aiding other persons to discriminate. ECRI moreover recommends that the law provide for a shared burden of proof in discrimination cases and place an obligation on authorities to promote equality and to suppress public financing of organisations, including political parties, which promote racism, or to dissolve them.
4. (§ 24) ECRI recommends that the San Marinense authorities establish by law an independent specialised body to combat racism and racial discrimination at national level. The law should include within the competences of such a body assistance to victims; investigation powers; the right to initiate, and participate in, court proceedings; monitoring of legislation and advice to the legislative and executive authorities; awareness-raising among society of the issues of racism and racial discrimination; and promotion of policies and practices aimed at ensuring equal treatment. When examining these issues, ECRI invites the authorities to draw on the basic principles set out in its General Policy Recommendations Nos. 2 and 7.
5. (§ 25) ECRI recommends, if the San Marinense authorities decide to reform the Equal Opportunities Commission as an independent specialised body to combat racism and racial discrimination, that the Commission should have at its disposal sufficient financial and human resources to enable it to adequately and independently fulfil the tasks which will be conferred on it by law.
6. (§ 30) ECRI reiterates its recommendation to the San Marinense authorities that they improve the systems used to monitor manifestations of xenophobia and intolerance in San Marino. It recommends that the authorities produce data based on the perceptions of potential victims in accordance with its General

Policy Recommendations No. 4, which provides detailed guidance on how to carry out these surveys, and No. 15 on combating hate speech.

7. (§ 34) ECRI recommends that the San Marinese authorities promote the self-regulation of public and private institutions, including elected bodies and political parties, as a means of combating the use of hate speech, while also encouraging the adoption of appropriate codes of conduct which provide for suspension or other penalties for breaches of their provisions, as well as the setting up of effective reporting channels. ECRI invites the authorities to draw on the basic principles set out in its General Policy Recommendation No. 15 on combating hate speech when examining these issues.
8. (§ 35) ECRI recommends that, while respecting the right to freedom of association, the authorities provide for the possibility of withdrawing all financial and other forms of support by public bodies from political parties and organisations which use hate speech or fail to sanction its use by their members, and also provide for the possibility of prohibiting or dissolving these organisations. ECRI invites the authorities to draw on the basic principles set out in its General Policy Recommendation No. 15 on combating hate speech when examining these issues.
9. (§ 47) ECRI recommends that the authorities raise awareness among the public, and particularly potential victims of this type of offence, of the criminal legislation regarding racism and racial discrimination, as well as of the remedies provided for by law.
10. (§ 48) ECRI reiterates its recommendation that the authorities offer judges, lawyers and the police training on the criminal legislation in place relating to racism and racial discrimination.
11. (§ 50) ECRI recommends that San Marino complete as soon as possible the legislative process for ratifying the Council of Europe Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
12. (§ 58) ECRI recommends that the authorities pursue their efforts to guarantee, as soon as possible, equality of treatment in medical assistance between San Marinese and resident foreigners or those with stay permits.
13. (§ 61) ECRI reiterates its recommendation that non-nationals residing in San Marino be granted voting and eligibility rights in local elections (Giunte di Castello), in accordance with the principles laid down in the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.
14. (§ 62) ECRI recommends that San Marino sign and ratify the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.
15. (§ 66) ECRI recommends that the San Marinese authorities review the provisions governing the acquisition of San Marinese nationality through naturalisation in order to reduce the length of residence required to apply for naturalisation. It also recommends that more flexibility be introduced as concerns dual nationality when acquiring San Marinese nationality.
16. (§ 80) ECRI recommends that the authorities supplement legislation to protect persons from discrimination with provisions of civil and administrative law which expressly prohibit discrimination on grounds of sexual orientation or gender identity.
17. (§ 89) ECRI recommends that the San Marinese authorities begin as soon as possible the process for adopting legislation governing same-sex relationships.

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