



# FIFTH OPINION ON SAN MARINO

Advisory Committee  
on the Framework  
Convention for  
the Protection of  
National Minorities  
(ACFC)

Adopted on 4 October 2021

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

ACFC/OP/V(2021)4

Published on 8 February 2022

Secretariat of the Framework Convention for the Protection of National Minorities  
Council of Europe  
F-67075 Strasbourg Cedex  
France

[www.coe.int/minorities](http://www.coe.int/minorities)

## TABLE OF CONTENTS

---

SUMMARY OF THE FINDINGS.....	4
RECOMMENDATIONS.....	4
Recommendations.....	4
Follow-up to these recommendations.....	4
MONITORING PROCEDURE.....	5
Follow-up activities related to the recommendations of the Fourth Opinion of the Advisory Committee.....	5
Preparation of the state report for the fifth cycle.....	5
Country visit and adoption of the Fifth Opinion.....	5
ARTICLE-BY-ARTICLE FINDINGS.....	6
Personal scope of application (Article 3).....	6
Promotion of tolerance and intercultural dialogue (Article 6).....	6
Protection from discrimination and hate crime (Article 6).....	7
Law enforcement and respect for human rights (Article 6).....	9

## SUMMARY OF THE FINDINGS

1. In their fifth state report, the Sammarinese authorities reiterate that there are no national minorities on their territory within the meaning of the Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) and that there are no specific provisions on national minorities in domestic law.

2. Notwithstanding the limited scope of application of the provisions of the Framework Convention in San Marino, the Advisory Committee notes with satisfaction that the state has taken specific measures in the spirit of Article 6, particularly in the field of intercultural and interfaith dialogue. However, the Advisory Committee regrets that a number of its recommendations from the previous cycle have not resulted in their practical implementation.

3. San Marino continues to pay attention to the integration of society as a whole and the promotion of intercultural dialogue. According to the authorities, no cases of racism or racial discrimination have been recorded since the last monitoring cycle, although isolated cases of prejudice towards foreigners have prompted the organisation of cultural activities to foster tolerance and intercultural dialogue and counteract racism.

4. However, the Advisory Committee regrets that the state report fails to offer a more detailed overview of these initiatives, which are particularly relevant in view of the number of foreign residents present in the country. It also notes a general lack of statistical data on discrimination and racist incidents or offenses made public and provided to the Advisory Committee.

5. San Marino law provides for protection against discrimination. However, some grounds of discrimination, such as skin colour and language, are still not covered by existing legislation. Although the authorities are concerned with the counteraction of racism and racial discrimination, more awareness-raising measures amongst the population, police and judicial institutions would be helpful in preventing potential intolerance and racial discrimination. In this context, the Advisory Committee notes with regret that there has been no follow-up to its previous recommendation concerning the establishment of an independent body to monitor racism and discrimination and to offer adequate assistance to potential victims or the strengthening of the mandate of the Commission for Equal Opportunities and its independence, in particular by including representatives of civil society in its operation, and by providing it with sufficient financial and human resources.

## RECOMMENDATIONS

6. The Advisory Committee considers that the following recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to San Marino:

### Recommendations

7. The Advisory Committee reiterates its call on the authorities to complement the current legislative framework on discrimination by including skin colour and language in order to provide more comprehensive protection against discrimination.

8. The Advisory Committee further reiterates its call on the authorities to establish either an independent body to monitor and combat discrimination and racism, including hate speech on social media, promote intercultural dialogue, and offer adequate assistance to potential victims, or otherwise to strengthen the independence and broaden the mandate of the Commission for Equal Opportunities in these areas. Such an institution should involve representatives of civil society and be provided with sufficient human and financial resources to fulfil its mandate and to be able to take proactive measures in this respect.

### Follow-up to these recommendations

9. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth cycle Opinion. It considers that follow-up dialogue to review the observations and recommendations made in this Opinion would be beneficial. Furthermore, the Advisory Committee stands ready to support the authorities in identifying the most efficient ways of implementing the recommendations contained in the present Opinion.

## MONITORING PROCEDURE

## Follow-up activities related to the recommendations of the Fourth Opinion of the Advisory Committee

10. The Sammarinese authorities stated that they had drawn attention to the text of the Framework Convention and published the fourth Opinion<sup>1</sup> together with the corresponding Committee of Ministers' Resolution<sup>2</sup> on the website of the Ministry for Foreign Affairs.<sup>3</sup> However, the Advisory Committee has been unable to find this information online.<sup>4</sup>

## Preparation of the state report for the fifth cycle

11. The state report, due on 1 February 2019, was submitted on 22 March 2021.

12. As pointed out by the Advisory Committee in its letter to States Parties dated 5 July 2018 announcing the start of the fifth monitoring cycle, member states are deemed to pay special attention to gender equality in their reports.

## Country visit and adoption of the Fifth Opinion

13. The Advisory Committee did not visit San Marino after receiving the fifth state report, and its findings are based mainly on the latter. However, it has consulted representatives of the Commission for Equal Opportunities and civil society by video link. The Advisory Committee expresses its gratitude to the authorities for their co-operation in the submission of further information.

14. This fifth-cycle Opinion on the implementation by San Marino of the Framework Convention was adopted in accordance with Article 26(1) of the Framework Convention and Rule 25 of Resolution (2019)49 of the Committee of Ministers.<sup>5</sup> The draft opinion, as approved by the Advisory Committee on 1 June 2021, was transmitted to the Sammarinese authorities on 5 June 2021 for observations, according to Rule 37 of Resolution (2019)49. No observations were received from the authorities by the given deadline.

15. In view of the absence of recognised national minorities in San Marino, and as no person has manifested the intention to be recognised as such, this Opinion – like the previous ones – contains an assessment of measures undertaken by the authorities mainly with regard to Article 6 of the Framework Convention, which explicitly extends its protection to all persons living on the territory of the Party to the Convention.

<sup>1</sup> [Advisory Committee's fourth Opinion on San Marino](#), adopted on 20 November 2015 and published on 21 April 2016.

<sup>2</sup> [Resolution CM/ResCMN\(2016\)11](#) on the implementation of the Framework Convention for the Protection of National Minorities by San Marino, adopted by the Committee of Ministers on 14 September 2016.

<sup>3</sup> See page 3 of the [fifth State Report](#): "Through its website, the Ministry for Foreign Affairs highlights information from United Nations and Council of Europe monitoring bodies (reports, opinions, resolutions, recommendations, etc.), including the situation of San Marino in terms of the Framework Convention for the Protection of National Minorities. The information needed to access the text of the Framework Convention is available on the website."

<sup>4</sup> The [International Treaties webpage \(in Italian\) of the San Marino Ministry for Foreign Affairs](#) refers to the ratification of the Framework Convention by San Marino, without further information.

<sup>5</sup> The submission of the state report, which was due on 1 February 2019, was regulated by the Committee of Ministers' Resolution [Res\(97\)10](#). However, the adoption of this Opinion is regulated by [Resolution CM/Res\(2019\)49](#) on the revised monitoring arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities, as adopted by the Committee of Ministers on 11 December 2019.

## ARTICLE-BY-ARTICLE FINDINGS

**Personal scope of application (Article 3)**

16. The Advisory Committee commends the authorities of San Marino for the commitment they have demonstrated by ratifying the Framework Convention. However, the authorities have not taken any specific steps to publicise and improve knowledge of the Framework Convention and its objectives, including through the websites of the relevant parliamentary commissions and ministries. The Sammarinese authorities stated once again in their fifth state report that there are no national minorities on their territory within the meaning of the Framework Convention<sup>6</sup> and that there are no specific provisions on national minorities in domestic law.

17. The Advisory Committee is not aware of any individuals or groups having expressed an interest in protection by the Framework Convention among the “resident population” or “persons staying” in San Marino.<sup>7</sup> Some of the Advisory Committee’s interlocutors consider, however, that, among long-term residents in San Marino, some persons belonging to ethnic, linguistic and religious communities could be interested in the protection offered by the Framework Convention.

18. The Advisory Committee encourages the authorities to disseminate to relevant stakeholders information about the Framework Convention and the protection it offers, to publish this Opinion, in English and/or Italian, on relevant official websites and to adopt a flexible and dialogue-based approach in their relations with persons and groups who might be interested in the protection offered by the Framework Convention.

**Promotion of tolerance and intercultural dialogue (Article 6)**

19. San Marino’s ethnic composition has not significantly changed since the last Opinion. As of 31 December 2020, the foreign population accounted for 16.3% of the country’s total population, namely 5 495 persons out of 33 627.<sup>8</sup> Italians continue to be the main group of foreigners, while the rest of the non-national population is made up of *inter alia* smaller

numbers of Romanians, Ukrainians, Argentinians, Albanians, Russians, Moldovans, Brazilians, Poles, and Cubans.

20. In their most recent state report, the authorities reiterate their determination to continue promoting social integration, tolerance and easy access to all public services. However, mindful of “the increasing complexity of social phenomena around and within society, together with isolated cases of latent prejudice towards groups of people who are not San Marino citizens”,<sup>9</sup> the authorities point out that they had thought it necessary, as early as 2008, to adopt a legal framework and organise cultural activities to prevent the emergence of forms of racism and enhance the level of tolerance and understanding among the population.

21. The Advisory Committee notes that existing legislation calls for Catholic religious education in all state schools but also secures the right not to attend without being penalised. A law approved in June 2019 provides for ethics courses as an alternative for pupils who have withdrawn from Catholic education – a measure welcomed by the Advisory Committee’s interlocutors from civil society, who bore witness to greater tolerance and more intercultural and interfaith dialogue.<sup>10</sup>

22. In accordance with the Advisory Committee’s recommendations from the fourth monitoring cycle, the authorities in their most recent state report have provided information about measures to increase awareness of racism. Thus, San Marino continues to celebrate the International Day for the Elimination of Racial Discrimination on 21 March through numerous initiatives in the media<sup>11</sup> and training seminars for teachers in all types of schools in association with UNESCO and the Emilia Romagna Region (Italy).<sup>12</sup> International Holocaust Remembrance Day (27 January) is also commemorated regularly. On 13 May 2018, a March Against Hate was held in the historic centre of San Marino by a number of non-governmental organisations in conjunction with the San Marino Commission for Equal Opportunities, which saw a large turnout.

23. The Advisory Committee observes that, in the spirit of the Framework Convention, San Marino is continuing to pay attention to the integration of society as a whole and the

<sup>6</sup> See the San Marino authorities’ comments received on 18 July 2006 following the Advisory Committee’s second Opinion: “With regard to the scope of application of the Framework Convention for the Protection of National Minorities, both the San Marino Government and Parliament, when acceding to said Convention, intended the expression ‘national minority’ as not including foreign citizens residing on the territory of a contracting Party. The San Marino Government is still of this opinion. At the time of deposit of the instrument of ratification, no interpretative declaration in this regard was submitted in that the non-inclusion of residing foreign citizens in the notion of ‘national minority’ was deemed a certain and indisputable fact. On the basis of this interpretation, it is reiterated that no ethnic, linguistic or religious minorities exist in the Republic of San Marino.”

<sup>7</sup> The “resident population” comprises both foreign and San Marino nationals registered as resident in San Marino, while foreign nationals holding a residence permit for San Marino are considered to be “staying persons”.

<sup>8</sup> Figures taken from the website of the [San Marino Office of Economic Planning, Data Processing and Statistics](#).

<sup>9</sup> [Fifth State Report](#), page 3. This relates e.g. to prejudice against non-national workers and a disparaging portrayal of Roma in the media.

<sup>10</sup> One telling example was the addition, in late September 2019, of a crescent and a Star of David to the tympanum of the Chapel of St Anna beside the existing cross in order to represent the three monotheistic religions in San Marino (Christianity, Islam and Judaism) and emphasise San Marino’s role and vocation in promoting intercultural and interfaith dialogue.

<sup>11</sup> For instance, San Marino national television programme broadcast on 27 January 2020.

<sup>12</sup> For example, the education and sports sectors came together for a project in which the journalist, Adam Smulevich, presented his book, *Un calcio al razzismo. 20 lezioni contro l’odio* (“Kicking Out Racism: 20 Lessons against Hate”), to San Marino schoolchildren on a number of occasions.

promotion of intercultural and interfaith dialogue. It commends the authorities for the awareness-raising measures already taken and invites them to remain vigilant in order to prevent potential cases of racial discrimination.

24. The Advisory Committee encourages the authorities to continue pursuing an open and comprehensive approach towards the integration of society as a whole by strengthening legislative, administrative and other measures aimed at the promotion of tolerance, intercultural and interfaith dialogue and respect for diversity in society.

### Protection from discrimination and hate crime (Article 6)

25. The fundamental principle of equality is enshrined in Article 4 of the Declaration of Citizens' Rights and Fundamental Principles of the San Marino Legal Order (hereinafter "the Declaration").<sup>13</sup> On 28 April 2008, the Great and General Council (San Marino Parliament) approved Law No. 66/2008 introducing provisions on racial, ethnic, religious and sexual discrimination into the Penal Code. According to the authorities, this law reaffirms the commitment of the San Marino Government to the principle of non-discrimination and incorporates at domestic level the international commitments made by San Marino in this field.<sup>14</sup> The Sammarinese legal framework also prohibits restrictions on religious freedom and provides for prosecution of religious hate crimes.

26. San Marino does not have an ombudsperson institution or other national human rights structure<sup>15</sup> that would meet the requirements of the Paris Principles and those contained in Committee of Ministers' recommendations to member states on ombudsman and national human rights institutions.<sup>16</sup> The Equal Opportunities Commission<sup>17</sup> is made up of eight volunteer members appointed by the Great and General Council, seven of them on the basis of proposals from political parties, the eighth member being nominated by civil society. All members are appointed for five years. None of the members of this Commission, including the coordinator and the vice-coordinator, receive any remuneration. Despite a large list of competences, the action of this Commission is limited to advisory activities, issuing opinions and organising awareness workshops due to its annual budget of less than €10 000. The Commission does not have its own premises and meets at the headquarters of the State Secretariat for

Health and Social Security. It also does not have an archiving system. It does not publish an annual activity report and does not have a statistical database at its disposal.

27. The authorities have informed the Advisory Committee that no legislative changes are currently planned to elaborate on or set out in further detail the grounds of discrimination. The authorities believe that it is important to keep the provisions of Law No. 66/2008 general, since any further detail might risk making the categories non-exhaustive and therefore excluding some cases of discrimination. According to the authorities, "skin colour" and "language" are covered by the "personal circumstances" mentioned in Article 4 of the Declaration.

28. With regard to the Advisory Committee's recommendation to establish an independent body to monitor racism and discrimination and offer adequate assistance to victims of discrimination,<sup>18</sup> the authorities consider that, partly because of the size of San Marino's population and territory, and partly because of the extreme rarity of problems in the field of racism and discrimination, it is not appropriate to establish such a body. They also point out that San Marino has a strong and well-established social network based on non-governmental organisations, trade unions and trade associations, and that citizens are very close to their institutions, both local and central, thus allowing extremely easy and regular public access.

29. With regard to the issue of remedies for discrimination, the authorities have indicated that administrative court proceedings are governed by Law No. 68 of 28 June 1989 and subsequent amendments, whilst civil court proceedings are governed by a set of rules drawn from numerous sources. The authorities have also pointed out that San Marino has no Code of Civil Procedure as a single text<sup>19</sup> and that for both types of remedy the applicant must be represented by a lawyer permitted to practise in San Marino.

30. In its previous Opinion,<sup>20</sup> the Advisory Committee noted with satisfaction that Law No. 66/2008 had given effect to the fundamental principle of equality enshrined in Article 4 of the Declaration of Citizens' Rights and Fundamental Principles of the San Marino Legal Order and had introduced into the Penal Code, under Article 179 bis, the offence of racial discrimination, thus specifically penalising

<sup>13</sup> "1. Everyone shall be equal before the law, without any distinction as to sex, sexual orientation, personal, economic, social, political and religious status. [...] 3. The Republic shall guarantee equal social dignity and equal protection of rights and freedoms. It shall promote the conditions for the effective participation of citizens in the economic and social life of the country." ([Declaration, as amended in 2019](#), Article 4).

<sup>14</sup> See the [fifth State Report](#), page 3. See also the electronic records of the Official Gazette on the [San Marino Parliament website](#).

<sup>15</sup> Some functions performed by ombudspersons have been traditionally conferred upon the Captains Regent of the Republic of San Marino who are co-chiefs of state and preside over meetings of the parliament. The Captains Regent can also initiate referenda on strengthening human rights protection. The establishment of an Ombudsperson institution is not envisaged considering that it would be a difficult task for a small state like San Marino, as reported by the authorities to the United Nations in July 2018. See however para. 26 of the [Report](#) by the Commissioner for Human Rights, Mr Nils Muižnieks, published on 15 October 2015 following his visit to San Marino on 9-10 June 2015.

<sup>16</sup> See Recommendation [CM/Rec\(2019\)6](#) on the development of the Ombudsman institution adopted by the Committee of Ministers on 16 October 2019 and Recommendation [CM/Rec\(2021\)1](#) on the development and strengthening of effective, pluralist and independent national human rights institutions adopted by the Committee of Ministers on 31 March 2021.

<sup>17</sup> The Commission is provided for by Article 3 of Law No. 26 of 25 February 2004, as amended by Article 4 of Qualified Law No. 2 of 12 September 2006 and as further amended by Article 33 of Law No. 97 of 20 June 2008. For more information on the competences of San Marino Commission for Equal Opportunities, consult [its website \(in Italian\)](#).

<sup>18</sup> See [Advisory Committee's Fourth Opinion](#), paragraph 15, and the last part of the second recommendation in Resolution [CM/ResCMN\(2016\)11](#) on the implementation of the Framework Convention for the Protection of National Minorities by San Marino.

<sup>19</sup> Valeria Pierfelici, *Ricognizione delle regole di procedura civile sammarinese* ("Survey of San Marino rules of civil procedure"), AIEP, 2006.

<sup>20</sup> See [Advisory Committee's Fourth Opinion](#), paragraph 3.

dissemination, by any means, of ideas based on ethnic or racial hatred or superiority and incitement to discrimination on grounds including “race”, ethnic or national origin, and religion.

31. The Advisory Committee notes that Law No. 66/2008 covers the most serious and blatant forms of racism and discrimination. However, the Advisory Committee regrets that its previous recommendation to add in relevant national legislation other grounds of discrimination such as skin colour and language<sup>21</sup> has not been followed up, having in mind that at least one case of ethnic profiling based on skin colour was mentioned in the press in 2018.<sup>22</sup> It reiterates its position that anti-discrimination legislation must be complemented with these grounds.<sup>23</sup>

32. The Advisory Committee takes note of the authorities’ reply concerning administrative remedies. Noting that civil court proceedings are governed by a set of rules drawn from numerous sources, it is of the opinion that the authorities could consider ECRI General Policy Recommendation no. 7 to consolidate its legal framework with regard to civil and administrative remedies for discrimination cases in order to make the system more effective. It also highlights that it would be appropriate to make all categories of the population, especially non-nationals and potential victims of hate speech, more aware of the existence of remedy legislation and procedures.

33. In addition, the Advisory Committee takes note of the authorities’ arguments against the establishment of a new and independent body specifically to monitor racism and discrimination. It nevertheless notes that on 9 January 2021, in the run-up to the International Day of Human Fraternity celebrated for the first time on 4 February 2021, the board of the Attiva-Mente association<sup>24</sup> launched an online petition called “Una firma contro l’odio” (“A signature against hatred”) under the Istanza d’Arengo process.<sup>25</sup> This petition, which has gathered 400 signatures and on which the San Marino Parliament has agreed to vote before October 2021, is intended to encourage San Marino’s citizens to defend and promote mutual respect and to encourage citizens to reflect on the increasing online forms of aggression, radicalisation and hostility, including in San Marino.<sup>26</sup> This initiative also seeks to advance the proposal to provide San Marino with a specific body able not only to address these issues but also to protect and guarantee certain values that should not be taken for granted. The representatives of this association

want this body to take the form of a new parliamentary commission that would include representatives of civil society in order to ensure its independence and contact with the community.

34. During a videoconference, members of the Commission for Equal Opportunities confirmed the need to strengthen not only the independence of the Commission but also its human and above all financial resources in order to enable it to fully implement its mandate,<sup>27</sup> increase the visibility of its action, as well as collect, disaggregate and analyse data. Members of this Commission also expressed support for the inclusion of representatives of civil society, which could only but enhance its independence. Another problem raised is the complete renewal of all members of the Commission every five years which undermines its stability and the transfer of knowledge and files.

35. Bearing in mind the abovementioned expectations, the Advisory Committee regrets that the authorities have not responded to its repeated requests as well as those of the European Commission against Racism and Intolerance (ECRI) to set up an independent body and that they have not considered, at the very least, broadening the remit of the Commission for Equal Opportunities by strengthening its mandate and independence, and by providing it with sufficient human and financial resources to monitor discrimination and racism and offer adequate assistance to potential victims. The Advisory Committee notes that this alternative could require first bringing the powers and terms of reference of the Commission for Equal Opportunities into line with the guidelines set out in ECRI General Policy Recommendation No. 2 (revised) on specialised bodies<sup>28</sup> and then providing the Commission with sufficient human and financial resources to perform its additional duties and take more proactive measures to combat racism and promote intercultural dialogue. The Advisory Committee also takes note of a third alternative put forward by the Attiva-Mente association, which would be the establishment of a parliamentary commission specifically responsible for racism and discrimination issues, including online hate speech, with a mixed membership also encompassing representatives of civil society.

36. The Advisory Committee reiterates its call on the authorities to complement the current legislative framework on discrimination by including skin colour and language in

<sup>21</sup> See the [Advisory Committee’s Fourth Opinion](#), paragraph 12.

<sup>22</sup> This case concerned a black person living in Rimini (in Italy) but travelling regularly to San Marino for work, who was frequently stopped for checks in 2018 despite the fact that there are usually almost no checks between Italy and San Marino.

<sup>23</sup> See similar recommendation on page 9 of the [fifth ECRI report on San Marino](#), adopted on 6 December 2017 and published on 27 February 2018, and recommendations 119.54 and 119.56 of the [United Nations Human Rights Council Report of the Working Group on the Universal Periodic Review on San Marino from 3 January 2020](#) that have been accepted by San Marino ([authorities’ reply from 21 February 2020](#), p.2).

<sup>24</sup> See [interview \(in Italian\) with Attiva-Mente association on Rtv San Marino](#).

<sup>25</sup> An Arengo request (“istanza d’Arengo”) is one of the three institutions of direct democracy in the Republic of San Marino. It allows citizens to submit requests of public interest on the first Sunday after 1 October and the first Sunday after 1 April, coinciding with the election of the two new Captains Regent.

<sup>26</sup> <https://www.attiva-mente.info/progetti/cultura/una-firma-contro-l-odio> (in Italian).

<sup>27</sup> The [mandate of the Commission for Equal Opportunities](#) specifically covers legal and equal opportunities-related issues. According to members of this Commission, their work in practice covers discrimination based on “race”, ethnicity, nationality, religion, disability or sexual orientation, as well as domestic violence and violence against women. Hate speech in the media or on social networks is however not covered by the work of the Commission.

<sup>28</sup> See [fifth ECRI report on San Marino](#), paragraphs 21-25, pages 14-15.



order to provide more comprehensive protection against discrimination.

37. The Advisory Committee further reiterates its call on the authorities to establish either an independent body to monitor and combat discrimination and racism, including hate speech on social media, promote intercultural dialogue, and offer adequate assistance to potential victims, or otherwise to strengthen the independence and broaden the mandate of the Commission for Equal Opportunities in these areas. Such an institution should involve representatives of civil society and be provided with sufficient human and financial resources to fulfil its mandate and to be able to take proactive measures in this respect.

38. The Advisory Committee encourages the authorities to raise awareness among all persons living in San Marino on non-discrimination legislation and existing remedies.

### Law enforcement and respect for human rights (Article 6)

39. Since the last monitoring cycle, the police authorities (gendarmerie) 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 violence.<sup>29</sup> However, according to the information provided by the authorities, no cases of racism or racial discrimination have been registered in San Marino since the last monitoring cycle which explains the lack of recorded statistical data.<sup>30</sup> The authorities have also pointed out that, in San Marino, the yearly legislative output is small,<sup>31</sup> so that rules relating to the police and judiciary are few in number and “judges, prosecutors and members of the police force shall be informed of any legislative output that may affect their own operational areas”.

40. However, the Advisory Committee’s civil society interlocutors nuanced these assertions, pointing out that there was very little data collected and available to the general public on the number of cases of racism and discrimination and that most people were unaware of remedies. For example, the case of ethnic profiling based on skin colour mentioned in the press in 2018 had not been reported to the police or been the subject of complaints.<sup>32</sup> They also thought that the police, whether the national force or the gendarmerie, were not adequately trained to deal with cases of discrimination or racism and that to manage racism and discrimination the authorities ought to be guided by the progress made in recent years in the handling and prevention of violence against women, for example by training police officers to take more account of potential victims of discrimination and racism and to keep a watch on online hate speech.

41. In addition, members of the Commission for Equal Opportunities noted a lack of centralisation and cross-checked analysis of data relating to complaints from victims

of discrimination and racist incidents or offences, since complaints can be made to the police, through 24-hour emergency numbers or directly to the Commission or its two counselling centres.<sup>33</sup>

42. The Advisory Committee repeats its observation that an absence of racial discrimination complaints being reported to the authorities does not necessarily reflect the absence of discrimination but may equally point to the non-availability of clear information,<sup>34</sup> or limited public awareness, regarding existing legal remedies, as well as to the inapplicability of the legal framework to the actual context and the possible need to provide more training for those applying the law.<sup>35</sup>

43. The Advisory Committee considers that legal professionals and law enforcement officers should not only be “informed” about new legislation as indicated by the authorities but should also be offered training on the practical challenges in applying non-discrimination legislation so that potential cases of discrimination can be identified and recorded, duly investigated and, where appropriate, prosecuted. Law enforcement officers should also receive training in intercultural dialogue and respect for diversity in society in order to be better equipped to prevent and tackle potential intolerance and racial discrimination.

44. Whilst commending the progress made in introducing data collection for racist incidents and offences, the Advisory Committee considers it essential that the data collected by the police (gendarmerie) on the number of criminal offences involving incitement to hatred and discrimination should be, where possible, disaggregated by nationality, language and religion and analysed with data from other reporting means and that data should also be collected on the number of offences prosecuted and the number of sentences delivered by the courts.

45. The Advisory Committee invites the authorities to ensure that legal professionals and law enforcement officers are offered training on the practical challenges they may face in applying non-discrimination legislation in order for cases of discrimination to be adequately identified, recorded, investigated and prosecuted.

46. The Advisory Committee invites the authorities to continue improving data collection and analysis by disaggregating data, where possible, by nationality, language and religion, by taking data of different reporting mechanisms into account, and by making sure that such data is publicly available.

<sup>29</sup> See [fifth ECRI report on San Marino](#), pages 9 and 16.

<sup>30</sup> See the [fifth State Report](#), page 3.

<sup>31</sup> A little over 150 legislative measures a year on average.

<sup>32</sup> See footnote 22 of the present Opinion.

<sup>33</sup> Reports can be made to the Commission for Equal Opportunities by email (indicated on its website), Facebook or Instagram. The majority of these reports are submitted by email, on Instagram or via its counselling centres, and mainly concern cases of violence against women or bullying/harassment at work.

<sup>34</sup> In the course of its investigations, the Advisory Committee found a certain amount of erroneous information on various official websites, including wrong e-mail addresses and telephone numbers for contacting the relevant institutions, tabs without any content, and broken links.

<sup>35</sup> See the [Advisory Committee’s Fourth Opinion](#), paragraph 13.

The Advisory Committee on the Framework Convention for the Protection of National Minorities is an independent body that assists the Committee of Ministers of the Council of Europe in evaluating the adequacy of the measures taken by the Parties to the Framework Convention to give effect to the principles set out therein.

The Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 and entered into force on 1 February 1998, sets out principles to be respected as well as goals to be achieved by the states, in order to ensure the protection of national minorities. The text of the Framework Convention is available in English and French, as well as in Italian among many other languages.

This opinion contains the evaluation of the Advisory Committee in respect of San Marino.

The Council of Europe is the continent's leading human rights organisation.

It comprises 47 member states, including all members of the European Union.

All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law.

The European Court of Human Rights oversees the implementation of the Convention in the member states.

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE