



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 31 January 2007

ACFC/OP/II(2006)002

ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

**Second Opinion on San Marino,
adopted on 2 March 2006**

EXECUTIVE SUMMARY

The San Marinese authorities have continued to demonstrate a constructive approach to issues connected with implementation of the Framework Convention.

Further efforts are needed to broaden and consolidate San Marino's legislative and institutional framework for preventing and combating discrimination and intolerance.

In order to maintain and strengthen the present climate of dialogue and understanding, additional efforts are needed to promote integration, including new measures to raise awareness of the importance of tolerance and intercultural dialogue.

TABLE OF CONTENTS

| | |
|--|---|
| I. MAIN FINDINGS | 4 |
| II. ARTICLE-BY-ARTICLE FINDINGS..... | 5 |
| Article 3 of the Framework Convention..... | 5 |
| Article 6 of the Framework Convention..... | 5 |
| III. CONCLUDING REMARKS | 7 |
| Positive developments | 7 |
| Issues of concern..... | 7 |
| Recommendations | 7 |

**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

SECOND OPINION ON SAN MARINO

1. The Advisory Committee adopted the present Opinion on 2 March 2006, in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on the information contained in the second State Report (hereinafter the State Report) received on 23 August 2004, and other written sources consulted by the Advisory Committee. On the basis of the information available to it, the Advisory Committee concluded that the preparation of the present Opinion did not require a visit to San Marino.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in San Marino. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on San Marino, adopted on 30 November 2000, and in the Committee of Ministers' corresponding Resolution, adopted on 27 November 2001.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on San Marino.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of San Marino and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the current Opinion public upon its receipt.

I. MAIN FINDINGS

6. The Government of San Marino has stated that ratification of the Framework Convention was an act of solidarity to support the goals of this legal instrument. According to the San Marinese authorities, for the purposes of the Framework Convention there are no national minorities in the country's territory. In view of the information gathered during the first monitoring cycle, the Advisory Committee and the Committee of Ministers were of the opinion that the potential for applying a number of provisions of the Framework Convention in San Marino was limited.

7. In the light of the above, the Advisory Committee has not considered it necessary to promote follow-up activities between first and second monitoring cycles to the same extent as in other States Parties. While the Advisory Committee welcomes the support of the San Marinese authorities for the goals of the Framework Convention, it nevertheless notes that the second State report from San Marino is still very concise, even though the Advisory Committee made the request, during the first monitoring cycle, that more specific information be made available concerning the composition of the country's population.

8. The general climate of society in San Marino is one of dialogue and tolerance, and this is all the more important since, for some years now, the number of non-citizens living and working in San Marino has been increasing.

9. At the same time the existence of latent prejudice against non-citizens has recently been reported by certain sources. Because of this, additional attention should be paid to preventing discrimination and intolerance, to methods of combating these phenomena and to making the population aware of these issues.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Application of the Framework Convention

First-cycle findings

10. In its first Opinion, the Advisory Committee considered, in the absence of more specific information about the composition of the San Marinese population, that the authorities could, where appropriate, consider including in the scope of application of the Framework Convention, in consultation with the persons concerned and on an article-by-article basis, persons belonging to ethnic, linguistic or religious groups other than the majority.

Present situation

11. In their second State Report the San Marinese authorities have not provided any recent information on the composition of the San Marinese population. They have nevertheless stated that no substantive changes relevant to the protection of national minorities have occurred in San Marino since the first monitoring cycle of the Framework Convention and that coexistence of foreign workers with the local population is not presenting any particular problems.

12. The Advisory Committee notes that, this being the case, the authorities have not deemed it necessary to open a dialogue at national level concerning the application of the Framework Convention in San Marino.

Recommendations

13. In the light of the Framework Convention's goals, the authorities should in future consider, where appropriate, the possibility of applying the Convention, on an article-by-article basis, to persons with ethnic, linguistic or religious characteristics different from the majority. In addition, they should provide more specific information on the composition of the population in their dialogue with the Advisory Committee.

Article 6 of the Framework Convention

Promoting tolerance and combating discrimination

First-cycle findings

14. During the first monitoring cycle the Advisory Committee considered that, in view of the immigration that the country had recently experienced, it was important for the authorities to promote a spirit of tolerance and mutual respect between all persons living on the territory of San Marino.

Present situation

15. The Advisory Committee notes that the number of non-citizens living and working in San Marino has increased over the past few years and now includes, as well as Italians, persons from Central and Eastern Europe, South America and Africa, who have different ethnic, linguistic and/or religious identities from the majority.

16. According to the information at the Advisory Committee's disposal, the social climate in San Marino is, in general, distinguished by tolerance and dialogue, and the country has not experienced any particular problems of discrimination, intolerance or racism.

17. Nevertheless, the Advisory Committee notes that some indications of the existence of latent prejudice against non-citizens have begun to be detected among the public, although no overt forms of discrimination or intolerance have been reported. Like ECRI in its second report on San Marino¹, the Advisory Committee believes that monitoring the situation in this field would enable the authorities to combat and forestall such manifestations effectively and to take the most appropriate measures to facilitate integration of non-citizens in San Marinese society.

18. In spite of the existence of a legal framework providing protection against discrimination in various sectors, the Advisory Committee takes note of the absence of specific criminal-law provisions against incitement to racial violence, against hatred and discrimination, racist insults and threats, and concerning racist organisations. At the institutional level, the Advisory Committee regrets the absence of a specialised body to prevent and combat discrimination and intolerance.

19. On the ground, some difficulties have lately been reported concerning reception and status of non-citizens - difficulties that may put these persons at a disadvantage or expose them to discrimination in the labour market and access to social services.

Recommendations

20. The authorities should reinforce existing measures to prevent and provide protection against discrimination and intolerance, in particular through strengthening criminal law guarantees and the setting up of a specialized body for combating discrimination. Additional measures are also recommended for monitoring, informing and raising awareness of the population with respect to human rights and diversity.

21. Suitable measures should also be adopted and implemented, in consultation with the persons concerned, to promote and facilitate the integration of non-citizens.

¹ European Commission against Racism and Intolerance, CRI (2003) 42, Second Report on San Marino, adopted on 20 March 2003.

III. CONCLUDING REMARKS

22. The Advisory Committee considers that these concluding remarks could serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to San Marino.

Positive developments

23. San Marinense society continues to be distinguished by a general climate of tolerance and understanding, and this is all the more important since cultural diversity has been increasing in San Marino over the past few years.

Issues of concern

24. In view of recent information relating to the existence of latent prejudices within the San Marinense society and reported integration difficulties, existing means of preventing and combating discrimination and intolerance could be improved and made more effective.

Recommendations

25. In addition to the measures to be taken to implement the detailed recommendations contained in sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- Make additional efforts to ensure that San Marino's legislative and institutional framework effectively contribute to preventing and combating discrimination and intolerance.
- Continue and strengthen measures to heighten public awareness of the importance of tolerance and intercultural dialogue, and adopt measures to promote and facilitate integration.