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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

Thirty-ninth session
5-23 November 2007

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES IN
ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on Economic,
Social and Cultural Rights**

SAN MARINO

1. The Committee on Economic, Social and Cultural Rights considered the combined initial, second, third and fourth periodic reports of San Marino on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/SMR/4) at its 39th and 40th meetings, held on 9 November 2007, and adopted, at its 59th meeting held on 23 November 2007, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined initial, second, third and fourth periodic reports of San Marino, which, although late, were prepared in conformity with the Committee's guidelines, and takes note of the written replies to its list of issues (E/C.12/SMR/Q/4/Add.1 and Add.2).

3. The Committee also welcomes the constructive dialogue with the delegation of the State party, which included representatives of various government agencies with expertise on the subjects covered by the Covenant, and the explanations provided in response to the questions asked.

B. Positive aspects

4. The Committee notes with satisfaction the adoption of Law No. 84 of 17 June 2004, which recognizes the right of both parents to transmit their citizenship to their children.
5. The Committee welcomes the fact that the State party has acceded to the 1993 Hague Convention on the Protection of Children and Co-operation in Intercountry Adoption.
6. The Committee notes with satisfaction that the right to adequate housing is respected in San Marino, and that 80 per cent of the population own the housing units in which they live.
7. The Committee welcomes the fact that access to safe drinking water is guaranteed to the entire population, and also welcomes the water quality monitoring system in place in San Marino.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant in San Marino.

D. Principal subjects of concern

9. The Committee notes that, although the Covenant forms an integral part of domestic legislation, there is no court decision that mentions or confirms the direct applicability of its provisions.
10. The Committee notes with concern that the State party devotes only 0.007 per cent of its gross national product (GNP) to finance international cooperation activities.
11. The Committee notes with concern the absence of a well-structured legal framework that provides protection against discrimination in all its forms. The Committee is also concerned about the absence of criminal provisions to combat racism and discrimination.
12. The Committee is concerned at the State party's use of temporary and consultancy contracts. Such contracts may affect the enjoyment of just and favourable working conditions by persons employed as consultants.
13. The Committee is concerned at certain provisions of Law No. 42 that exclude non-nationals with only resident status from certain social benefits such as unemployment benefit in the event of a suspension or reduction of their employment.
14. The Committee is concerned that the level of social pension does not provide a decent standard of living for pensioners.
15. The Committee is concerned at the use of concepts such as "legitimate children" and "natural children" in current legal language. Distinctions based on such criteria may affect the enjoyment of all the rights established under the Covenant.

16. The Committee is concerned at the definition of the family given in paragraph 143 of the State party's report. That type of definition excludes single-parent families and impairs their access to the various forms of support granted by the State party, including family allowances.

E. Suggestions and recommendations

17. The Committee encourages the State party to ensure that the provisions of the Covenant are given effect by its domestic courts. The Committee also draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant.

18. The Committee urges the State party to make an effort to allocate 0.7 per cent of its GNP to development assistance by the year 2015, in accordance with the Millennium Development Goals.

19. The Committee encourages the State party to pursue its efforts to establish an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134), with a mandate to protect and promote all human rights, including economic, social and cultural rights.

20. The Committee encourages the State party to accede to the International Labour Organization (ILO) Labour Inspection Convention, 1947 (No. 81), Social Security (Minimum Standards) Convention, 1952 (No. 102), Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) and Equality of Treatment (Social Security) Convention, 1962 (No. 118).

21. The Committee encourages the State party to consider the establishment of a well-structured legal framework for protection against discrimination in all its forms and to adopt criminal provisions to combat racism and discrimination.

22. The Committee requests the State party to include, in its next periodic report, detailed information on measures adopted to ensure the enjoyment of economic, social and cultural rights by women. It also requests the State party to provide statistics on the number of women in Parliament and working at the University.

23. The Committee requests the State party to provide detailed information in its next periodic report on the working conditions of persons employed as consultants and those on temporary contracts.

24. The Committee requests the State party to provide in its next periodic report information on irregular migration flows affecting the country. The Committee also requests statistics on the number of cross-border workers in the San Marino labour market.

25. The Committee recommends that the State party study the possibility of reviewing its social security mechanisms in order to ensure that non-nationals are not excluded from certain forms of social security.

26. The Committee encourages the State party to consider increasing the allowances financed directly through income tax, in particular the amount of the social pension, in order to ensure a decent standard of living for pensioners in accordance with article 9 of the Covenant.

27. The Committee encourages the State party to stop using concepts such as “legitimate children” and “natural children” in current legal language and to consider adopting other terms such as “children born within marriage” and “out of wedlock”.
28. The Committee requests the State party to provide detailed information on the situation of single-parent families in its next periodic report.
29. The Committee requests the State party in its next periodic report to provide information on the draft law additional to the San Marino Criminal Code concerning domestic violence.
30. The Committee requests the State party to provide information on trafficking in and smuggling of women and children in its next periodic report.
31. The Committee requests the State party to include in its next periodic report detailed information explaining why such a large proportion of the population has undergone psychiatric examination.
32. The Committee encourages the State party to adopt structured measures to combat HIV/AIDS.
33. The Committee requests the State party to make the present concluding observations widely available at all levels of society, and especially to State officials and members of the judiciary, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to involve non-governmental organizations and other members of civil society in discussions at the national level before it submits its next periodic report.
34. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.4, chap. I).
35. Finally, the Committee requests the State party to submit its fifth periodic report not later than 30 June 2010.
