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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
IN ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Additional replies by the Government of San Marino to the list of issues
(E/C.12/SMR/Q/4) to be taken up in connection with the consideration
of the combined initial and second, third and fourth periodic reports of
SAN MARINO concerning the rights referred to in articles 1-15 of the
International Covenant on Economic, Social and Cultural Rights
(E/C.12/SMR/4)**

[10 October 2007]

Question 3

1. Until now, there have been no cases where the provisions contained in the Covenant have been explicitly referred to either upon initiative of the parties involved or by the judge. Although reference could be made to such provisions, also with a view to their direct implementation, on the basis of article 1 of the Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order (as amended by article 2 of Law No. 36 of 2002, according to which: "The Republic of San Marino **receives generally recognised rules of international law as integral part of its constitutional order**, to which it shall conform its acts and conduct. It recognises the provisions set forth in the international declarations on human rights and fundamental freedoms. [...] San Marino constitutional order recognises, guarantees and enforces the rights and fundamental freedoms set forth by the European Convention for the Protection of Human Rights and Fundamental Freedoms. **Regularly signed and implemented international agreements on the protection of human rights and freedoms shall prevail over domestic legislation in case of conflict.**"), worth noting is that the practical reason behind the lack of an explicit reference to the provisions contained in the Covenant is that the fundamental principles set forth by the Covenant have already been broadly received as part of the San Marino constitutional order, both at a constitutional level and in terms of "ordinary" legislation.

2. Therefore, such reference is superfluous for the San Marino law professionals (lawyers, judges, notary publics, etc.), as the application of domestic legislation is sufficient. Indeed, not only is such legislation not in contrast with international agreements aimed at protecting human rights and fundamental freedoms, but it is also absolutely in line with them.

3. Worth specifying is that the judicial authorities' awareness-raising on the rights mentioned in the Covenant is guaranteed not only through the organization, although occasional, of seminars and conferences on this issue, but also through direct involvement of the magistrates both in the activities connected with the drafting of reports and in the meetings with the single United Nations monitoring Committees.

Question 9

4. Worth underlining is that, compared to the data referring to 2004, as of June 2007 female unemployment rate is equal to 1.49 per cent, while male unemployment rate is 0.91 per cent. This significant decrease in the unemployment rate is to be considered in the light of the increase in female labour force, which in 2004 was equal to 8,588 female workers compared to 9,351 female workers in June 2007 (+8.8 per cent), with a constant increase in the reference years. Worth highlighting is also the fact that the percentage growth of domestic female dependent work (San Marino citizens, as well as women with residence and stay permits) is higher than for males. The same goes for total female employment rate, which in 2004 was equal to 77.87 per cent and in June 2007 to 82.67 per cent, while the domestic one was 66.02 per cent in 2004 [as indicated in paragraph 64 of the San Marino report (doc. E/C.12/SMR/4)] and 68.77 per cent in June 2007.

5. With the entry into force of Law No. 131 of 29 September 2005, “Law on the promotion, support and development of employment and training”, new training contracts were introduced, with a view to facilitating the first employment of young people or hiring of high school or university graduates, as well as employment contracts destined to women to be reinserted in the labour market, long-term jobless or idle female workers or women aged over 50.

Question 10

6. While confirming the adequate application of the Laws regulating access to the labour market, both public and private, of disabled people, also in the light of the recent regulations, which extend the range of parental leaves and work permits in favour of these kinds of workers and their families, hereunder is a description of the situation both in the private and public sectors:

(a) Private sector

Year	Number of disabled people employed in private companies
2006	64
2005	62
2004	60
2003	67
2002	64

7. As of 15 February 2007, unemployed people registered in the unemployment list were two.

(b) Public sector

8. As of today, the number of workers with verified disability employed in the public sector is equal to 20 permanent workers on the building sites of the Public Works State Corporation (AASP) destined to workers in difficulty aged from 50 to 65, and 46 fixed-term and permanent employees at the offices of the various public sector bodies.

Question 13

9. The appropriate level of remuneration in the State party is confirmed. In this regard, paragraphs 76 and 80 of the report already indicate the way in which such remuneration is regulated. Indeed, the latest labour agreement renewals of both the general government and the private sector have registered an increase above the inflation rate, while it is confirmed that, in the absence of a relevant collective agreement, the territorial minimum wages of the collective labour agreement for the industrial sector applies. Moreover, worth recalling is that this agreement only applies for a maximum period of one and a half years, within which a specific Remuneration Table must be devised following negotiations among the parties, in order to be included in the respective collective labour agreements.

Question 18

10. Answer to this question is undoubtedly complex on account of the great variety of the relevant interests and situations.

11. It appears necessary to start from article 78 of Law No. 49 of 1986, which reads:

“Any Registry Office certificate referring to the adopted child shall be issued only with the indication of the new surname and no reference shall be made to the natural parents of the minor and to the note specified in Article 76.

The State Registrar shall, under criminal penalty, refuse to provide information, certificates, abstracts or copies from which the adoption relationship can be inferred, unless authorisation to the contrary is given by the Judicial Authority.”

12. In San Marino, the prudential regulations governing public disclosure of documents concerning adoptions, and therefore also of the natural parents of the adopted child, seem to find a general agreement.

13. Indeed, such prudential behaviour mainly aims at avoiding trauma and distress in minors, which could seriously damage their balanced psychophysical development. As demonstrated by experience, such problems normally occur when the child acquires the knowledge of his/her own “biological” origins from outside the family in which he/she has been legally placed, and without the necessary psychological mediation and preparation provided by the social services.

14. Moreover, the objective of such prudential practice is to protect the “new” family, which has formed through adoption.

15. Finally, this prudential approach can also be aimed at meeting confidentiality needs of natural mothers and/or fathers and of the family possibly formed by them, as well as of their children.

16. From the principle at the basis of the prohibition imposed on the State Registrar it can be inferred that an individual and autonomous “right” to accede to information concerning natural parents cannot be recognized to a minor, even in the case of older minors sufficiently capable of discernment. Indeed, such access could lead to whims, abuses, blackmails and therefore conflicts likely to undermine values and interests, which are considerably more important than the possible interest of minors in knowing their biological origins.

17. However, under this system, the Law Commissioner may authorize the State Registrar to provide information if, according to the Minors’ Service, such information would prove useful and/or necessary to the balanced development or the psychophysical health of the minor.

18. Nevertheless, in such cases, the decision about the legitimacy of such requests should be a responsibility of:

(a) The adoptive parents exercising parental authority, in case they are not in conflict with the adopted child;

(b) An ad hoc guardian in case of conflict between the adoptive parents and the adopted child and if, according to the Minors' Service, the interest of the minor in knowing his/her origins prevails over such conflict; or

(c) The person responsible for the health centre whenever it is necessary to immediately acquire specific information to meet health needs of the minor.

19. Although no specific cases have been reported in this regard, from the proper functioning and efficiency of the San Marino Minors' Service, on the one hand, and the excellent collaboration that has always existed between the Minors' Service and the Magistrates responsible for minors' issues, on the other hand, it can be inferred that, in the Republic of San Marino, the adopted minor's interest in knowing his/her own natural parents is safeguarded whenever this is absolutely necessary to the balanced development of his/her personality, on the basis of accurate and detailed examinations jointly conducted by the interested institutional bodies.

20. The Republic of San Marino has acceded to The Hague Convention of 29 May 2003 on Protection of Children and Co-operation in respect of Intercountry Adoption on 6 October 2004.

Question 21

21. No cases concerning trafficking in human beings, prostitution or begging have ever occurred or in any case been submitted to the judicial authorities.

Question 22

22. Teachers of all school grades of the Republic of San Marino unanimously believe that it is inadmissible to resort to corporal punishments within schools and share the legal and cultural foundations affirmed in the International Covenant on Economic, Social and Cultural Rights.

23. For decades, the competent State institutions have not reported any cases of corporal punishments inflicted by teachers, nor have there been any reports or denunciations by the families of the pupils or students.

24. Moreover, in order to promote a pedagogical culture based on the protection and involvement of children and adolescents, schools organize public meetings mainly targeted to parents and educators, although these meetings are open to all citizens. They represent an occasion to reflect and provide information on the themes concerning the rights of the child, with particular reference to the prevention of all forms of violence.¹

¹ Kindergartens: education laboratory from December to May: meetings with teachers, parents and interested citizens on the relevant themes. Elementary Schools: public meetings in March 2007 on possible interventions by the school and the families with a view to the emotional well-being of children "Star bene a scuola, star bene a casa. Come aiutare il bambino a raggiungere il benessere emotivo"; "E se il nostro bambino è una peste? I possibili interventi della scuola e della famiglia". Speakers: Mr. Mario Di Pietro and Mrs. Cristina Menazza.

25. The Republic of San Marino contributes to the implementation of an effective prevention also through its participation in the campaigns promoted by international organizations. One example was San Marino participation in December 2006 in the Council of Europe Campaign entitled “Seven good reasons to build a Europe for and with children”. The principles of this Campaign have been disseminated through a brochure in Italian² and during a refresher course on “Education to democratic citizenship”.³

26. Initial and on-the-job training for the teachers of all school grades includes the specific analysis of issues concerning the protection of children and the promotion of their active participation in the civil life.⁴

27. With reference to the second part of question No. 22, worth mentioning is a case, decided upon in the criminal judgement No. 239 of 1995, where a father was sentenced for committing the crime provided for in article 235 of the Criminal Code (in this specific case, the father was responsible for a series of acts undermining the physical and moral integrity of children).

² This initiative was carried out by the Secretariats of State for Foreign Affairs and for Education and Culture on the occasion of the six-month Chairmanship of the Committee of Ministers of the Council of Europe.

³ Organized by the Training Department of San Marino University in January 2007. Speaker: Mrs. Patrizia Di Luca.

⁴ One example is the refresher course organized by kindergartens at the beginning of the school year 2007/08 and concerning strategies and instruments to face behavioural problems (“Capire per agire: strategie e strumenti per riconoscere e intervenire sui *comportamenti problema*”). Speaker: Mrs. Cristina Menazza.