

SAN MARINO 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of San Marino is a multiparty democracy. The popularly elected unicameral Great and General Council (parliament) selects two of its members to serve as captains regent (co-chiefs of state). They preside over meetings of the council and the Congress of State (cabinet), which has no more than 10 other members (secretaries of state), selected by the council. Observers considered parliamentary elections in November to be free and fair. Security forces reported to civilian authorities.

There were no widespread or systemic human rights abuses.

There were some reports of violence against women, and government health and safety standards were not enforced in the informal labor sector. Not all public buildings were accessible to persons with physical disabilities.

The government took steps to prosecute officials accused of abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

Physical Conditions: There was one prisoner during the year. The space was adequate, and facilities for men and women were generally comparable.

Administration: Authorities allowed prisoners and detainees reasonable access to visitors and permitted religious observance. During the year prisoners and detainees did not submit any complaints concerning treatment or conditions to officials. The government monitored prison conditions, and there were no media reports criticizing prison authorities. Authorities considered recordkeeping adequate. The country does not have an ombudsman for detained persons.

Monitoring: The government permitted periodic visits to San Marino Prison by the Council of Europe's Committee for the Prevention of Torture, although none occurred during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The Civil Police operate under the authority of the Ministry of Internal Affairs. The gendarmerie and National Guard (military corps) are under the control of the captains regent when performing duties related to public order and security, under the Foreign Ministry for such administrative functions as personnel and equipment, and under the Military Congress for enforcement of military discipline. The gendarmerie is under the control of the court when it acts as judicial police.

Civilian authorities maintained effective control over the civil police, the gendarmerie, and the National Guard, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

Warrants based on sufficient evidence and issued by a duly authorized official allowed suspects to be apprehended openly. The law provides a detainee with the

right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. Police promptly informed detainees of charges against them. There is a well-functioning bail system. Detainees are allowed quick access to family members and to a lawyer of their choice; the state provides legal assistance to indigent persons. There were no reports of incommunicado detention or the use of house arrest.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides for the presumption of innocence and the right of defendants to be informed promptly and in detail of the charges against them. They have the right to a fair, public trial without undue delay. There is no trial by jury. A single judge presides over trials. Defendants have the right to be present and to consult with an attorney of their choice even during preliminary investigations. Indigent defendants have the right to an attorney provided at public expense. Defendants have the right to adequate time to prepare a defense, access to government-held evidence relevant to their cases, question witnesses against them, and present witnesses and evidence on their behalf. They may not be compelled to testify or to confess guilt. They have the right to two levels of appeal. The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Judges act independently and impartially on civil matters, and administrative as well as judicial remedies exist for alleged wrongs, including human rights violations. Citizens may appeal cases involving alleged violations of the European Convention on Human Rights by the state to the European Court of Human Rights (ECHR) after they have exhausted all routes for appeal in the country's courts.

Regional Human Rights Court Decisions

The government complied with ECHR orders to pay compensation in cases it lost and did so in one case during the year.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms without appropriate legal authority. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union, approximately 50 percent of the population used the Internet in 2011.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for these rights, and the government generally respected them in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government was committed to cooperating with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: While the law does not provide for the granting of asylum or refugee status, the government has a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government may grant refugee status or asylum by an act of the cabinet. There were no requests for asylum during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: Observers considered parliamentary elections, held in November, to be generally free and fair. A center-left coalition led by the Christian Democratic Party won with 50.7 percent of the votes.

Participation of Women and Minorities: The law requires that no more than two-thirds of a party's candidates be of the same gender. Voters elected ten women to the Great and General Council in the November elections. However, unlike in the previous legislature, no women were selected to serve in the new cabinet. There were no members of minorities in the government.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively. During the year a parliamentary committee accused a few parliamentarians and public officials of complicity or corruption in a case of money laundering involving Italian organized crime. As a consequence, the government suspended two public officials, and the court started an investigation on the case. Public officials are subject to financial disclosure requirements. The director of the San Marino Interpol office is responsible for the country's anticorruption activities required by the World Bank, but there is no specific government agency to combat corruption.

The law provides for public access to government information, and the government provided access for citizens and noncitizens through the Ministry of Interior's Web site.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no domestic human rights organizations, although the government did not restrict their formation. The government declared itself open to investigations by international nongovernmental organizations of alleged human rights abuses, but there were no known complaints or requests for investigations during the year.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, religion, sexual orientation, or social status. The government effectively enforced antidiscrimination laws.

Women

Rape and Domestic Violence: Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted persons accused of such crimes. The penalty for rape is two to six years' imprisonment. In the case of aggravating circumstances, the penalty is four to 10 years' imprisonment. The government did not prosecute or convict any individual for rape during the year.

The law prohibits violence against women, and the government effectively enforced it. The penalty for spousal abuse is two to six years' imprisonment. In aggravating circumstances it is four to 10 years' imprisonment. During the year

the court of appeals sentenced one person to seven and one-half years in prison in a case of violence against a woman.

Sexual Harassment: The government effectively enforced the law prohibiting sexual harassment and did not report any legal cases involving sexual harassment during the year. There were no press accounts of incidents of harassment.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children and had the information and means to do so free from discrimination, coercion, or violence. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination: Women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. There were no reports of economic discrimination against women in pay, employment, or working conditions.

Children

Birth Registration: Citizenship is derived from one's parent (either mother or father) and by birth within the country's territory if both parents are unknown or stateless. Births must be registered within 10 days, and there were no reports that persons were denied public services, such as education or health care, because their births were not registered.

Child Abuse: Violence against or abuse of children was uncommon. A court sentenced one person to five years in prison by the Court of Appeals during the year in a case of sexual abuse of a minor.

Child Marriage: The legal minimum age of marriage is 18. However, a judge can authorize the marriage of minors aged 16 and older in special cases.

Sexual Exploitation of Children: The minimum age of consent for sex is 18; the penalty for sexual acts with a minor is imprisonment for six months to three years. The penalty increases to two to six years if the child is under 14 or is under 18 and has physical or mental disabilities. The law prohibits child pornography, including performances, works, and material, and provides for punishment of anyone trading in or providing or in any way distributing child pornography material. The law

punishes anyone who provides information aimed at enticing or sexually exploiting children under the age of 18. The penalty for this type of crime is imprisonment for two to six years, which is increased to four to 10 years if it involves sexual intercourse or if it has been committed to the detriment of a child under the age of 14 or a child under 18 who has physical or mental disabilities.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish community was believed to be small; no data were available on its size. There were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports of human trafficking during the year.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, air travel and other transportation, education, access to health care, and in the provision of other state services. The government effectively enforced these provisions. There were no reports of societal discrimination against persons with disabilities. Children with disabilities attended school at all levels; assistant teachers offered them special help. The Ministry for Territory has not fully implemented a law that mandates easier access to public buildings by persons with disabilities, and many buildings were inaccessible.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law forbids discrimination based on sex or personal, economic, social, political, and religious status. Such laws applied to lesbian, gay, bisexual, and transgender (LGBT) individuals.

The law punishes discriminatory acts based on sexual orientation. There were no reports of discrimination based on sexual orientation or gender identity, and it is

unlikely that stigma or intimidation was a factor in preventing incidents of abuse from being reported.

Other Societal Violence or Discrimination

There were no reports of discrimination against persons with HIV/AIDS or other groups.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law protects the right of workers (except those in the gendarmerie and National Guard) to form and join independent unions, conduct legal strikes, and bargain collectively. The law sets the conditions for establishing labor unions. The law prohibits antiunion discrimination and provides for reinstatement for workers fired for union activity.

The government effectively enforced applicable laws without lengthy delays and appeals. The government respected freedom of association and the right to collective bargaining. Worker organizations were independent of the government and political parties. During the year the government did not interfere in union activities, seek to dissolve unions, or use excessive force to end strikes or protests. During the year there were no reports of antiunion discrimination.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced such laws. During the year there were no reports of forced labor.

c. Prohibition of Child Labor and Minimum Age for Employment

The government effectively enforced laws and policies to protect children from exploitation in the workplace.

The minimum age for employment is 16; the law does not limit children between the ages of 16 and 18 from any type of legal work. The government effectively enforced child labor laws and devoted adequate resources and oversight to child labor policies. There were no reported cases of child labor during the year.

d. Acceptable Conditions of Work

Industry-based minimum wages exist for various industrial sectors. The minimum wage for a lowest category worker in the services sector (lowest paid category) is 8.96 euros (\$11.83). While there was no official estimate of the poverty income level, individuals with annual incomes below 8,500 euros (\$11,220) could apply for a state contribution that varied depending on the level of poverty. On average, less than 2 percent of the adult population applied for this contribution annually, and the government disbursed an average of 1,350 euros (\$1,782) per contribution. The law requires equal pay for women and men performing equal work.

The law sets the workweek at 36 hours in the public sector and 37.5 hours for industry and private businesses, with 24 consecutive hours of rest per week mandated for workers in both categories. The law requires a premium payment for overtime and allows a maximum of two hours of overtime per day. The law prohibits excessive or compulsory overtime. The government set safety and health standards.

The government generally enforced labor standards well, but there were a few exceptions, especially in the construction and mechanic industries, where some employers did not consistently abide by safety regulations, such as work-hour limitations and use of personal safety devices. The penalties provided by law were generally sufficient to deter violations. Two inspectors of the Labor Safety Office of the Social Security Institute were involved in a case of corruption in the public administration, in which they were accused of failing to inspect a local construction company. According to press reports, there were approximately 700 nonfatal on-the-job injuries during the year, representing a decline of more than 40 percent from 1997 data. To further reduce the number of on-the-job injuries, the local accident prevention unit of the San Marino Social Security Institute set up a weekly online information program in collaboration with a news magazine in June.