

SAN MARINO 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of San Marino is a multi-party 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 2012 to be free and fair. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

There were no reports of egregious human rights abuses.

There was one report of violence against a woman, and authorities did not enforce government health and safety standards 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. The Commissario della Legge (Commissioner of the Law), investigates and prosecutes any allegations of criminal activity in the country, including any security force 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 were five prisoners during the first 10 months of the year. The space was adequate, and facilities for men and women generally were comparable. There were no reports of deaths in prison or other detention facilities during the first 10 months of the year.

Administration: Prison authorities allowed prisoners and detainees reasonable access to visitors and permitted religious observance. Judicial authorities regularly used alternative measures to incarceration, such as house arrest and social service, for nonviolent offenders. In the first 10 months of 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.

Independent Monitoring: The Council of Europe's Committee for the Prevention of Torture visited the country's prison and other facilities.

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 captains regent control the gendarmerie and National Guard (military corps) when they are performing duties related to public order and security, the Foreign Ministry exercises control over such administrative functions as personnel and equipment, and the court exercises control over the gendarmerie when it acts as judicial police. The Military Congress enforces military discipline.

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 first 10 months of the year.

Arrest Procedures and Treatment of Detainees

Warrants based on sufficient evidence and issued by a duly authorized official allowed authorities to apprehend suspects. 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. Police promptly informed detainees of charges against them. There is a well-functioning bail system. Authorities provide detainees quick access to family members and a lawyer of their choice. The state provides legal assistance to indigent persons, and there were no reports of limitations to this provision. The authorities did not detain or hold persons incommunicado or place them under house arrest.

e. Denial of Fair Public Trial

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

Trial Procedures

The laws, which serve as a constitution for the country, provide for the right to a fair trial, and the judiciary generally enforced this right. The law provides for the presumption of innocence and requires authorities to inform defendants 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. Defendants may access government-held evidence relevant to their cases, question witnesses against them, and present witnesses and evidence on their behalf. Authorities may not compel defendants to testify or to confess guilt. They have the right to two levels of appeal. The law extends these rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Administrative as well as judicial remedies exist for alleged wrongs, including human rights violations.

Regional Human Rights Court Decisions

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 courts. The government complied with ECHR orders to pay compensation in cases it lost and did so in one case in the first 10 months of the year.

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

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

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. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press. The country's laws prohibit persons from disseminating through any means ideas based on racial superiority or on racial or ethnic hatred, or to commit or encourage others to commit discriminatory acts on the grounds of race, ethnicity, nationality, religion, or sexual orientation. There were no reports of prosecutions based on these laws.

Internet Freedom

There were no government restrictions on access to the internet and no 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, almost 51 percent of the population used the internet in 2012.

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.

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. 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 country is not a party to the UN refugee convention or the 1967 protocol, the government has a system for providing protection to refugees. The government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be in danger. The government may grant refugee status or asylum by an act of the cabinet. There were no requests for asylum during the first 10 months of 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 through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: Observers considered parliamentary elections, held in November 2012, 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 10 women to the Great and General Council in the November 2012 elections. Unlike in the previous legislature, the council did not select any women to serve in the new cabinet. There were no members of minorities in the government.

Section 4. Corruption and Lack of Transparency in Government

Corruption: The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively. During the year the court began to hear a case involving 10 public officials accused in 2012 of money laundering. The case continued as of November. 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.

Whistleblower Protection: The law does not provide measures to protect whistleblowers.

Public Access to Information: The law provides for public access to government information, and the government provided access for citizens and noncitizens through the ministry of interior's website, the parliament's website, and the official bulletin's website. The law regulates which acts must be made public, and there were no reports of public officials placing obstacles to requests for information.

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 any alleged human rights abuses, but there were no known complaints or requests for investigations in the first 10 months of 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.

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. There was one pending 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 in the first 10 months of 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. The law requires equal pay for women and men performing equal work.

Children

Birth Registration: Citizenship derives 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

experienced denial of public services, such as education or health care, because their births were not registered.

Child Abuse: Violence against or abuse of children was uncommon. There were no reports of sexual abuse of minors in the first 10 months of the year.

Forced and Early Marriage: The legal minimum age of marriage is 18, but a judge can authorize the marriage of minors who are 16 and older in special cases.

Sexual Exploitation of Children: The minimum age of consent for sex is 18. 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 includes punishment for anyone who provides information aimed at enticing or sexually exploiting children under the age of 18.

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 small; no data were available on its size. There were no reports of anti-Semitic acts.

Trafficking in Persons

As of early 2014, there were no confirmed reports of trafficking of persons to, from, or within the country.

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 most of these provisions. 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. There were no press reports or legal cases involving discrimination against persons with disabilities. Children with disabilities attended school at all levels; assistant teachers offered them special help.

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 official or media reports of discrimination based on sexual orientation or gender identity, and there were no indications that stigma or intimidation were factors in preventing persons from reporting incidents of abuse.

Other Societal Violence or Discrimination

There were no reports of discrimination against persons with HIV/AIDS or other groups. The country's laws prohibit persons from disseminating through any means ideas based on racial or ethnic hatred, or to commit or encourage others to commit discriminatory acts on the grounds of race, ethnicity, nationality, religion, or sexual orientation, and offenders can be prosecuted *ex officio*. Under the law, the perpetration of an offense for purposes related to discrimination based on race, ethnicity, nationality, religion, or sexual orientation is an aggravating circumstance.

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 first 10 months of the year, the government did not interfere in union activities, seek to dissolve unions, or use excessive force to

end strikes or protests. There were no reports of antiunion discrimination in the first 10 months of the year.

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 first 10 months of 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 in the first 10 months of the year.

d. Acceptable Conditions of Work

There is no national minimum wage. 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 9.84 euros (\$13.00). While there was no official estimate of the poverty income level, individuals with annual incomes below 8,500 euros (\$11,000) 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.

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 provides for paid annual holidays and leave, 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. For the latter reason one worker was seriously injured in the first 10 months of the year. The penalties provided by law were generally sufficient to deter violations. Authorities brought to trial two Labor Safety Office inspectors for failing to inspect a local construction company in 2012.