

SAN MARINO 2017 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-heads 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 the parliamentary elections in 2016 to be generally free and fair.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included corruption charges against former senior elected officials.

The government took steps to investigate and punish officials accused of abuses.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

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

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions. In contrast to 2016, prisoners did not complain about prison facilities and conditions.

Independent Monitoring: The government permitted visits by independent nongovernmental observers and international bodies.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these requirements.

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 Ministry of Foreign Affairs 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 has effective mechanisms to investigate and punish abuse and corruption. The commissioner of the law investigated and prosecuted criminal activity in the country, including any killings by security forces. There were no reports of impunity involving the security forces.

Arrest Procedures and Treatment of Detainees

Warrants based on sufficient evidence and issued by a duly authorized official are required for authorities to apprehend persons other than those whom they caught and arrested during the commission of an alleged crime. Authorities did not detain individuals without judicial authorization or in secret. Police promptly informed detainees of charges against them. There was a well functioning bail system. Authorities provided detainees prompt access to a lawyer of their choice and to family members. The state provided legal assistance to indigent persons, and there were no reports of limitations to this provision. The law provides for an

apprehended person to be detained in prison or a treatment facility or under house arrest. The person may be ordered also to remain in the country while their case is pending trial. There were no reports that authorities detained or held persons incommunicado.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The law provides a detainee the right to a judicial determination of the legality of the detention, and authorities generally respected this right. A person who is arrested or detained may appeal before the criminal judge of appeal within 10 days from notification or execution of the relevant measure. The decision of the criminal judge of appeal can be challenged within 30 days before the highest judge of appeal, who decides on the legitimacy of the measure. A person who has been arrested or detained may obtain prompt release if found to have been unlawfully detained.

e. Denial of Fair Public Trial

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

Trial Procedures

The law provides for the right to a fair and public trial, and an independent 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. Defendants have the right to a fair, public trial without undue delay. Defendants have the right to be present and to consult with an attorney during every stage of the investigation. Indigent defendants have the right to an attorney provided at public expense. A single judge presides over trials. Defendants have the right to adequate time to prepare a defense. Free language interpretation is provided throughout the legal process. Defendants may question witnesses against them, and present witnesses and evidence on their behalf. Authorities may not compel defendants to testify or to confess guilt. Defendants have the right to two levels of appeal. The law extends these rights to all persons, and no groups were denied these rights.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals may seek civil remedies for human rights violations through domestic courts. Administrative as well as judicial remedies exist for alleged wrongs, including human rights violations. Citizens may appeal cases involving alleged violations by the government of the European Convention on Human Rights to the European Court of Human Rights after they have exhausted all routes for appeal in the domestic courts.

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

The law prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the 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 expression, including for the press.

Freedom of Expression: The country's laws prohibit persons from disseminating, by any means, ideas based on racial superiority or on racial or ethnic hatred, or from committing or encouraging 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.

Press and Media Freedom: The law regulating media and the work of media professionals provides for an authority for information, which may impose sanctions (including fines) on journalists and media who violate a national media code of conduct. An implementing code of conduct was approved on July 31.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no reports that the government monitored private online communications without appropriate legal authority. According to the

International Telecommunication Union, 75 percent of the population used the internet in 2016.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Although the country is not a signatory to the UN Convention on Refugees, the government cooperated 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. There was only one case during the year.

Protection of Refugees

Access to Asylum: The government may grant refugee status or asylum by an act of the cabinet.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: Observers considered the 2016 parliamentary elections to be generally free and fair.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and they did participate.

The cabinet did not include any women, although the two heads of state elected for the period April 1-October 1 were both women.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively.

Corruption: There were some reports of government corruption during the year. On June 29, the Court of First Instance sentenced 17 persons, most of them former leading politicians (eight ministers and five heads of state) for corruption, bribery, money laundering, and similar crimes.

Financial Disclosure: There is no specific financial disclosure requirement for public officials. The law requires candidates running for an elected office to disclose their income from the previous year as well as any assets or investments in companies.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

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

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 in prison. In aggravated circumstances, the sentence is four to 10 years.

The law prohibits domestic violence, and the government effectively enforced it. Domestic violence is a criminal offense; the penalty for spousal abuse is two to six years in prison. In aggravated circumstances, the term is four to eight years. Authorities recorded one case of stalking against a former partner and no cases of rape in the first nine months of the year.

Sexual Harassment: The government effectively enforced the law prohibiting sexual harassment. There was one conviction for sexual harassment during the first nine months of the year.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The law provides for the same legal status and rights for women as for men. The law regarding domestic violence and domestic abuse also prohibits gender-based discrimination.

Children

Birth Registration: Citizenship derives from one's parent (either mother or father) or, if both parents are unknown or stateless, by birth on the country's territory. Births must be registered within 10 days.

Child Abuse: Authorities recorded two cases of sexual harassment against minors. The government was effective in combatting these abuses.

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

Sexual Exploitation of Children: The law prohibits child pornography, including performances, works, and material, and provides for punishment of anyone trading in, providing, or in any way distributing child pornography. The law includes punishment for providing information aimed at enticing or sexually exploiting children under the age of 18, the minimum age of consent for sex. Authorities enforced the law.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The Jewish population is small. There were no reports of anti-Semitic acts during the first nine months of the year.

Trafficking in Persons

There were no confirmed reports during the first nine months of the year that San Marino was a source, destination, or transit country for victims of human trafficking.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government generally enforced these prohibitions effectively, but not all public buildings were accessible to persons with physical disabilities. The San Marino Commission on Disabilities made numerous requests for authorities to implement laws passed in 2015 to protect the rights of persons with disabilities. There were no reported cases of discrimination against a person with disabilities during the first nine months of the year.

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

The law forbids discrimination based on sex or personal, economic, social, political, or religious status. Such laws apply to lesbian, gay, bisexual, and transgender individuals. The law makes no reference to intersex persons.

The law provides that, when a person commits an offense motivated by hostility toward the victim's sexual orientation, courts should consider such motivation as an aggravating circumstance when imposing sentence. The laws prohibit persons from committing or encouraging others to commit discriminatory acts on the grounds of sexual orientation.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The government enforced applicable laws without lengthy delays and appeals. Information regarding the adequacy of resources, inspections, remediation efforts, judicial and administrative procedures, and penalties for violations was not available.

The government and employers generally respected freedom of association and the right to collective bargaining. Worker organizations were independent of the government and political parties. During the first nine months of the year, there were no reports that the government interfered in union activities, sought to dissolve unions, or used excessive force to end strikes or protests. There were no reports of antiunion discrimination in the first nine 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. Resources, remediation efforts, and investigations appeared adequate, although information on penalties for violations and their effectiveness was not available.

According to the Office of the Labor Inspector, during the year there were no reports of forced labor.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment is 16. The law does not exclude minors between the ages of 16 to 18 from any type of work. Minors are not allowed to work overtime and cannot work more than eight hours per day. The government effectively enforced child labor laws and devoted adequate resources and oversight to child labor policies. During the first nine months of the year, the Office of the Labor Inspector did not report any cases of child labor.

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

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment and occupation on the basis of race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, or HIV-positive status or other communicable diseases. The government effectively enforced these laws and regulations. There were no official cases of discrimination in employment or occupation brought during the first nine months of the year.

e. Acceptable Conditions of Work

There is no national minimum wage. Industry-based minimum wages existed for various industrial sectors. The minimum wage for a lowest paid category worker in the services sector was 9.84 euros (\$11.80) per hour. While there was no official estimate of the poverty income level, individuals with annual incomes below 8,500 euros (\$10,200) could apply for a state contribution, which varied depending on the level of poverty. On average less than 2 percent of the adult population applied for this contribution annually. Low-income individuals could also apply for welfare payments.

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 effectively. 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. Authorities did not enforce health and safety standards in the informal sector. There were no reports of serious injuries to workers in the first nine months of the year. The penalties provided by law range from a fine to imprisonment for a second-degree crime and were generally sufficient to deter violations. The Office of the Labor Inspector has responsibility for receiving and investigating claims of workplace health and safety violations. The agency for environment and the Agency for Civil Protection are mandated to supervise the implementation of legislation on safety and health in the workplace as well as to investigate major accidents.