

SAN MARINO 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of San Marino is a multiparty democracy. Twice yearly, the popularly elected unicameral Great and General Council (parliament) selects two of its members to serve as captains regent (coheads of state). They preside over meetings of the Council and of the Congress of State (cabinet), which has no more than 10 other members (secretaries of state), selected by the Council.

Parliamentary elections were held in 2019, and observers considered them generally free and fair.

The Civil Police operates under the authority of the Ministry of Internal Affairs. The captains regent oversee the Gendarmerie (national police force) and National Guard (military) 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 courts exercise control over the Gendarmerie when it acts as judicial police. Civilian authorities maintained effective control over the security forces.

There were no reports of significant human rights abuses.

The government had mechanisms in place to identify, investigate, and prosecute officials who commit human rights abuses or engage in corruption.

Section 1. Respect for the Integrity of the Person

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, and Other Related Abuses

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.

Administration: No allegations of mistreatment were reported to authorities.

Independent Monitoring: The government permitted visits by independent nongovernmental observers and international bodies, including the Council of Europe's Committee for the Prevention of Torture.

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 or her arrest or detention in court. The government generally observed these requirements.

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 who are caught and arrested during the alleged commission of a 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, in 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.

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, without undue delay, and an independent judiciary generally enforced this right. A law approved in March introduced the plea bargain, the review of precautionary measures, and extended in certain circumstances the right of defendants from two to three levels of appeal.

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 abuses through domestic courts. A law approved in March provided for the mandatory review of precautionary measures. Administrative as well as judicial remedies exist for alleged wrongdoing, including human rights abuses. After they have exhausted all routes for appeal in the domestic courts, citizens may appeal cases involving alleged government violations of the European Convention on Human Rights to the European Court of Human Rights.

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

a. Freedom of Expression, Including for Members of the Press and Other Media

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

and other media, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

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.

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.

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 <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

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

e. Protection of 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.

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. Foreigners who have resided in the country for at least 10 years may vote in local elections.

Elections and Political Participation

Recent Elections: Observers regarded the parliamentary elections in 2019 as generally free and fair.

Participation of Women and Members of Minority Groups: No laws limit the participation of women or members of minority groups, including persons with disabilities and lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons, in the political process, and they did participate. Women accounted for 10 percent of ministerial positions.

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. There were no reports of government corruption during the year.

Section 5. Governmental Posture Toward 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 often were cooperative and responsive to their views.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: Rape of a person, regardless of gender, 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. No figures for cases of rape or domestic violence were available.

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 prison term is four to eight years.

Sexual Harassment: The government effectively enforced the law criminalizing sexual harassment. In October the trial began of a former head of state for alleged sexual harassment committed in March, when he was still serving in that position; it was still ongoing at year's end.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The government provided access to sexual and reproductive health services for survivors of sexual violence. Emergency contraception was available as part of the clinical management of rape. Access to abortions is allowed under a law approved in September, following a referendum held in September 2021.

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.

Systemic Racial or Ethnic Violence and Discrimination

The law prohibits all kinds of discrimination, including racial or ethnic violence and discrimination. Racial and ethnic discrimination are aggravating circumstances for crimes and the law is regularly enforced. There are no laws that specifically protect members of racial or ethnic minorities.

Children

Birth Registration: Citizenship derives from either parent, including adoptive parents, or if both parents are unknown or stateless, by birth in the country's territory. Births must be registered within 10 days.

Child Abuse: The law prohibits child abuse. When abuse is committed against a minor, it constitutes an aggravating circumstance.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 18, but a judge can authorize the marriage of minors at the age of 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. Authorities enforced the law. The law includes punishment for providing information aimed at enticing or sexually exploiting children younger than 18, the minimum age of consent for sex. The penalty for this type of crime is imprisonment for two to six years, increased to four to 10 years if it involves sexual intercourse or if it has been committed to the detriment of a child younger than 14 or a child younger than 18 who has physical or mental disabilities.

Antisemitism

There is a small Jewish population in the country. There were no reports of antisemitic acts.

Trafficking in Persons

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

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: Laws do not criminalize same-sex sexual conduct between

adults nor so-called “cross-dressing.” Seemingly neutral laws were not disproportionately applied to LGBTQI+ persons to justify arbitrary arrest.

Violence against LGBTQI+ Persons: There were no known cases of violence against LGBTQI+ persons during the year.

Discrimination: The law forbids discrimination based on sex or sexual orientation, as well as personal, economic, social, political, or religious status.

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 law prohibits persons from committing or encouraging others to commit discriminatory acts on the grounds of sexual orientation.

Availability of Legal Gender Recognition: Legal gender recognition is not officially provided by the law, although the government has registered gender change in a few instances, following a legal determination.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: No cases of so-called conversion therapy or of unnecessary surgeries performed on intersex persons were reported during the year.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: No restrictions on the freedoms of expression, association, or assembly of LGBTQI+ persons, nor of those speaking out about LGBTQI+ issues, were reported during the year.

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. An NGO requested that the government effectively guarantee the right to live an independent life to persons with disabilities.

Independent research published in March and conducted during the first phase of

the pandemic to evaluate access to health care for persons with disabilities found there are many steps to be taken to make access to health care equal and inclusive. There were no reported cases of discrimination against persons with disabilities.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for workers to form and join independent unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination and requires reinstatement of workers fired for union activities. Some limitations defined by the law apply to strikes by workers employed in “essential public services,” including health care, education, and transportation. The government effectively enforced applicable laws without lengthy delays. Penalties were commensurate with those for similar violations. Penalties include fines and in cases of recidivism the prohibition of professional activity. Penalties were regularly applied against violators.

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 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, nor were there any 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. Resources, remediation efforts, and investigations appeared adequate and effective, although information on penalties for violations was not available.

According to the Office of the Labor Inspector, no cases of forced labor were reported.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. The minimum age for employment is 16, and the law excludes minors between the ages of 16 and 18 from hazardous jobs. Minors cannot work more than eight hours per day and are not allowed to work overtime. The government effectively enforced child labor laws and devoted adequate resources and oversight to child labor policies. Penalties were commensurate with those for similar crimes, and inspection was sufficient to enforce compliance. During the year the Office of the Labor Inspector received no reports of illegal child labor.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment and occupation based on race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, or HIV or AIDS status, or other communicable diseases. The law explicitly mandates equal pay for work of equal value. The law does not specifically prohibit discrimination in access to credit based on sex.

The government effectively enforced these laws and regulations, and penalties were commensurate with those for similar violations. There were no official cases of discrimination in employment or occupation brought during the year.

e. Acceptable Conditions of Work

Wage and Hour Laws: There is no national minimum wage. Industry-based minimum wages higher than the poverty income level existed for various industrial sectors. The law provides for a standard workweek of 37.5 hours and prohibits excessive or compulsory overtime. The law provides for paid holidays and provides premium pay for overtime.

Occupational Safety and Health: The government set appropriate occupational safety and health (OSH) standards for the main industries.

Wage, Hour, and OSH Enforcement: The government's Labor Office generally enforced labor standards effectively. The Office of the Labor Inspector has

responsibility for receiving and investigating claims of workplace health and safety violations. A sufficient number of inspectors were responsible for identifying unsafe situations and have the authority to make unannounced visits and levy fines. 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. There were a few exceptions to compliance, especially in the construction industry, where some employers did not consistently abide by safety regulations, such as workhour limitations and use of personal safety devices. Authorities did not always enforce health and safety standards in the informal sector. There were no reports of fatalities or serious injuries to workers during the year.

The penalties for failing to comply with the safety and health regulations provided by law range from a fine to imprisonment and were generally commensurate with those for similar crimes. Penalties were regularly applied against violators. One labor union considered that the sanctions applied by authorities were not always adequate.