

# **SAN MARINO 2018 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.

There were no reports of egregious human rights 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.

Administration: No allegations of mistreatment were reported to the authorities.

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 or 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 (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. The Military Congress enforces the military code of conduct.

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. 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 who are 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, 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, 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 wrongdoings, 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 this right. 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 violations of or 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. Online publications, such as blogs or messages on social media operated or written by individuals, associations, or parties were not considered as being part of the press and are therefore not covered by this legislation.

The Council of Europe's European Commission against Racism and Intolerance noted the absence of journalist representatives within the Office of the Press Ombudsman, which is in charge of ensuring compliance with the code of ethics.

One journalist, sentenced to one month in prison on charges of revealing private correspondence, lodged an appeal at the European Court for Human Rights, claiming he was not allowed to confront his accuser. The court accepted the case for review.

### **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. Reliable information on internet use in the country was not available.

## **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/](http://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. Only one family (from Syria) was granted asylum in the country 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.

Both captains regent in power until April were women, but the cabinet did not include any other 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: In March the government filed a suit involving former minister Claudio Podeschi and former ambassador to Montenegro Paul Phua. The latter was charged with having bribed the former in exchange for a diplomatic appointment and for easing the issuance of a public permit for the building of a hotel.

Financial Disclosure: There is no specific financial disclosure requirement for public officials. The law requires candidates running for elective 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 often were 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. No cases of rape or domestic violence were reported in the first 10 months of the year.

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 prohibiting sexual harassment.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

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. In May the parliament passed a law regarding the functioning of the Authority for Equal Opportunities.

## **Children**

Birth Registration: Citizenship derives from one's parent (either mother or father) 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 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 younger than age 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 age 14 or a child younger than 18 who has physical or mental disabilities.

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 younger than age 18, the minimum age of consent for sex.

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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

### **Anti-Semitism**

The Jewish population is small. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

There were no confirmed reports during the year that the country 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. Following numerous requests by the San Marino Commission on Disabilities to implement laws passed in 2015 to protect the rights of persons with disabilities, in February the parliament passed a law providing support for the disabled and their families. There were no reported cases of discrimination against a person with disabilities.

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

While the law forbids discrimination based on sex or personal, economic, social, political, or religious status, it does not extend specific antidiscrimination protections to lesbian, gay, bisexual, transgender, and intersex individuals on the basis of sexual orientation or gender identity.

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.

## **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, conduct legal strikes, and it prohibits antiunion discrimination. Striking by workers employed in “essential public services”, including healthcare, education, and transports are subject to some limitations defined by the law. 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 10 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, there were no reports of forced labor.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for employment is 16 and the law excludes minors between the ages of 16 and 18 from the heaviest 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 10 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. Penalties were sufficient to deter violations.

#### **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 and penalties were sufficient to deter violations. There were no official cases of discrimination in employment or occupation brought during the first 10 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 the lowest category worker in the services sector was 9.84 euros (\$11.32) per hour. While there was no official estimate of the poverty income level, individuals with annual incomes below 8,500 euros (\$9,780) could apply for a state subsidy, 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 prohibits excessive or compulsory overtime. The government set appropriate safety and health standards for the main industries. The penalties for failing to comply with the safety and health regulations provided by law range from a fine to imprisonment for a second-degree crime and were generally sufficient to deter violations.

The government generally enforced labor standards effectively. There were a few exceptions, especially in the construction industry, 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 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.