

# **SAN MARINO 2016 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 early parliamentary elections, held on November 20 and December 4, to be generally free and fair.

Civilian authorities maintained effective control over the security forces.

There were no reports of egregious human rights abuses.

There were some charges of corruption on the part of officials and politicians. Not all public buildings were accessible to persons with physical disabilities. Authorities did not always enforce government health and safety standards in the informal labor sector.

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 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.

Physical Conditions: There were no reports of deaths in prison or other detention facilities during the first seven months of the year. In May there were reports that one inmate attempted suicide in his cell. Some prisoners complained that confinement in a small prison in close proximity to prisoners who had accused them of their crimes took a psychological toll. A court-appointed physician diagnosed two inmates with depression and prescribed medication. Prisoners also complained about a lack of space for exercise and worship, inadequate medical treatment, and poor lighting.

Administration: The country does not have a dedicated ombudsman for detained persons. The two captains regent may receive petitions from citizens regarding any activities of government bodies.

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 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 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 had 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 quick access to family members and a lawyer of their choice. 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 either in prison or a treatment facility or in house arrest. The person may also be ordered to remain in the country while the case is pending trial. There were no reports that authorities detained or held persons incommunicado or placed them under house arrest.

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 and compensation (for both material and moral damages) 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.

### **Trial Procedures**

The law provides for the right to a fair 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. A single judge presides over trials. Indigent defendants have the right to an attorney provided at public expense. Defendants have the right to adequate time to prepare a defense. Free language interpretation is provided throughout the legal process. 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. Defendants have the right to two levels of appeal. The law extends these rights to all persons, and no groups were denied these rights.

The government has started a reform of the criminal code to increase the rights of defendants during all phases of the judicial process, including the appointment of a judge responsible for ensuring defendants' rights are safeguarded.

### **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 state of the European Convention on Human Rights to the ECHR 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 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.

Freedom of Speech and 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 Freedoms: 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. There is no appeal procedure for those convicted.

No data was available on whether the government or an individual public figure used this law or other related laws against libel, slander, defamation, or blasphemy to restrict public discussion.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no reports the government monitored private online communications without appropriate legal authority. According to the International Telecommunication Union, 53 percent of the population used the internet in 2014.

### **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 the freedoms of 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, 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 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. Cooperation was limited.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established 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.

### **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 early parliamentary elections, held on November 20 and December 4, 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.

### **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: On January 11, the Court of Appeals confirmed the conviction for corruption of five defendants. Three were public officials convicted of accepting bribes. One was sentenced to five years and six months in prison for accepting cash bribes on six occasions to allow construction projects in the country to avoid inspection. In April a former foreign affairs minister convicted in 2015 of criminal

association, corruption, vote buying, and money laundering was transferred to house arrest. As of early October, he was still under house arrest.

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

Public Access to Information: The law provides for public access to government information, and the government effectively implemented the law by providing such information to the public through the websites of the Ministry of Interior, the parliament, and the official bulletin.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations 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 violence against women, and the government effectively enforced it. The penalty for spousal abuse is two to six years in prison. In aggravated circumstances, the term is four to eight years. Authorities recorded six cases of domestic violence (physical, psychological, and economic) and no cases of rape in the first seven months of the year.

On May 6, the government incorporated the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence into the criminal code. As a result, new cases of such violence, including forced

marriage, female genital mutilation, forced sterilization, and domestic violence are considered crimes.

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

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence.

Discrimination: The law provides for the same legal status and rights for women as for men. There were no reports of discrimination against women in marriage, divorce, child custody, employment, credit, pay, ownership and management of businesses or property, education, the judicial process or housing. The May 6 amendments to the criminal code regarding domestic violence and domestic abuse also prohibit 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.

Early and Forced Marriage: The legal minimum age of marriage is 18, but a judge can authorize the marriage of minors 16 and older 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](http://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 seven 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 in employment, transportation, education, access to health care, the judicial system, or the provision of other state services. 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 the implementation of laws passed in March 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. There was one case where the government charged a citizen with abandonment of a person with disabilities.

## **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, 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 race, ethnicity, nationality, religion, or sexual orientation, courts should consider such motivation as an aggravating circumstance when imposing sentence. The laws prohibit persons from disseminating, by any means, ideas based 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. Offenders are subject to prosecution.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

A new law on labor unions was approved in May. It streamlines and strengthens collective bargaining and sets more precise requirements for the registration of trade unions and employers' associations. The new law establishes an authority to certify legal compliance to participate in collective bargaining and sign collective agreements. 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 prohibits antiunion discrimination and provides for reinstatement for workers fired for union activity.

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 in practice. 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 were 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 for 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-category worker in the services sector (lowest paid category) was 9.84 euros (\$10.80). While there was no official estimate of the poverty income level, individuals with annual incomes below 8,500 euros (\$9,350) 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 well. 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 had responsibility for receiving and investigating claims of workplace health and safety violations. The Agency for Environmental and the Agency for Civil Protection were mandated to supervise the implementation of legislation on safety and health in the workplace, as well as investigations of major accidents.

Workers could remove themselves from situations that endangered health or safety without jeopardy to their employment. The government effectively protected this employment right.