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San Marino

Country Reports on Human Rights Practices - [2005](#)

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San Marino, with a population of approximately 28 thousand, is a democratic, multiparty republic. The popularly elected parliament, the Great and General Council (GGC), selects two of its members to serve as Captains Regent (co-heads of state). They preside over meetings of the GGC and the cabinet (congress of state), which has no more than ten other members (secretaries of state) who the GGC also selects. The most recent parliamentary elections held in 2001 were free and fair. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse.

RESPECT FOR HUMAN RIGHTS

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.

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 conditions generally met international standards, and the government permitted visits by independent human rights observers, but there were none during the year.

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 Ministry of Interior controls the civil police, who are responsible for domestic security, traffic, and civil defense. The Ministry of Foreign Affairs controls the gendarmerie and the national guard, who are responsible for the protection of the national borders and the security of public buildings and who act in coordination with the civil police in the prevention of crime and the maintenance of public order.

The security forces are adequately staffed and effective in maintaining law and order. There were no reports of corruption involving members of the security forces. Impunity was not a problem. Investigations of police abuse are usually assigned to one of the three police forces not involved in the case. There were no instances where police failed to prevent or to respond to societal violence during the year.

Arrest and Detention

Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. The law provides a

detainee with the right to a prompt judicial determination of the legality of his detention, and the authorities generally respected this right in practice. There is a well functioning bail system. Detainees are allowed prompt access to family members and to a lawyer of their choice; the state provides legal assistance to indigent persons.

There were no reports of political detainees.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice.

The judiciary is composed of the commissioner of the law, the judging magistrate, the appellate judge, the juvenile court, and the judge of last appeal. The commissioner tries civil and penal cases with penalties not exceeding a three-year sentence. The judging magistrates, who are appointed by parliament for a three-year term and can be indefinitely reappointed, preside over all other cases.

Reform legislation, enacted in 2004, no longer requires that the country's lower court judges be noncitizens; however, most lower court judges remained Italian citizens. A local conciliation judge handles cases of minor importance. Under the same reform, the final court of review is the judge of the last appeal. In civil matters, this judge confirms or overrules either the lower court judgment or an appellate decision; in criminal matters, he judges on the legitimacy of detention measures and on the enforcement of a judgment.

On April 28, a new act established the country's constitutional court with the following functions: 1) to verify that laws, acts, and traditions that are given the force of law conform to constitutional precepts; 2) to verify the admissibility of a referendum; 3) to decide on conflicts between constitutional institutions; 4) to control the activity of the Captains Regent. The court is composed of three standing judges and three alternate judges. They are selected by the GGC with a two-thirds majority to a four-year term. After the first selection one-third of the members of the court are reselected every two years.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and are presided over by a single judge. There are no provisions for a jury trial. Defendants have the right to be present and to consult with an attorney even during preliminary investigations. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. They have access to government-held evidence relevant to their cases. They enjoy a presumption of innocence and have the right to two levels of appeal.

In case of legal actions against military personnel, a civil judge is temporarily given a military grade and assigned to an ad hoc military tribunal.

Political Prisoners

There were no reports of political prisoners.

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

The Catholic Church receives direct benefits from the government through income tax revenues; taxpayers may request that 0.3 percent of their income tax payments be allocated to the Catholic Church or to "other" charities, including two religions (the Waldesian Church and Jehovah's Witnesses).

The government does not require official recognition, registration, or license for religious groups. However, it requires legal status for tax or other commercial purposes. While a concordat with the Holy See regulates relations with the Catholic Church, other religions, such as the Baha'is and Jehovah's Witnesses are included in a registry of cultural associations.

Societal Abuses and Discrimination

There were fewer than 12 Muslims and no known Jewish citizens in the country. During the year there were no reports of any violence or discrimination against religious minorities or anti-Semitic acts.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, but the government has a system for providing protection to refugees. In practice, the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government may grant refugee status or asylum by an act of the cabinet. For humanitarian reasons, the government granted a year permit of stay to an Eritrean woman and her two children, which will expire in April 2006.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

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 in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

Most recent elections held in 2001 were considered free and fair. The Christian Democratic Party (DCS) obtained 25 of the 60 Parliamentary seats and confirmed the government alliance with the Socialist Party (PSS), which won 14 seats. However, a period of political instability ensued, and several short-lived governments were elected through 2003, when the present large coalition government including the DCS, PSS, and the Party of Democrats, the third largest party with 12 parliamentary seats, was elected. The next general elections are expected to take place in April or May 2006.

There were nine women in the 60-seat parliament and one woman in the eight-seat cabinet.

There were no members of minorities in the government.

Government Corruption and Transparency

There were no reports of corruption by public officials during the year.

The law provides for public access to government activity and the government provides access for citizens and noncitizens through the GGC's Web site.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There were no domestic human rights organizations, although the government does not restrict their formation. The government declared itself open to investigations of alleged human rights abuses by international nongovernmental organizations, but there were no known requests during the year.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced it.

Women

Violence against women, including spousal abuse, was rare. The law prohibits violence against women, and the government effectively enforced it. During the year there were no reports of violence against women. The penalty for spousal abuse is two to six years' imprisonment. In the case of aggravating circumstances the penalty is 4 to 10 years' imprisonment.

Rape was very rare. During the year there were no reports of rape. Rape, including spousal rape, is a criminal offense, and the government effectively prosecuted those accused of such crimes. The penalty for rape is two to six years' imprisonment. In the case of aggravating circumstances the penalty is 4 to 10 years' imprisonment.

Prostitution is not legal, and it was not common.

Sexual harassment is illegal, and the government effectively enforced the law. There were no reports of sexual harassment during the year.

Under the law, women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. There was no economic discrimination against women in pay, employment, or working conditions. There is no special government office to ensure the legal rights of women.

Children

The government was committed to children's rights and welfare.

Education is free until grade 13 (usually age 18) and compulsory until age 16. Most students continued in school until age 18. No differences were apparent in the treatment of girls and boys in education.

Medical services were amply funded, and boys and girls had equal access to health care.

Violence against or abuse of children was uncommon. There were no reported cases during the year; however, the judicial investigations of a 2003 case of sexual abuse by a father against his teenage adopted daughter and a similar sexual abuse crime committed in 2004 were ongoing at year's end.

Trafficking in Persons

The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these provisions. There were no reports of societal discrimination against persons with disabilities. 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.

Section 6 Worker Rights

a. The Right of Association

By law all workers (except the armed forces) are free to form and join unions, and workers exercised this right in practice. The law sets the conditions to establish labor unions. Union members constituted approximately 50 percent of the country's non-self-employed work force, which numbered approximately 15 thousand citizens plus 5 thousand nonresident Italians. A "conciliatory committee" composed of representatives from labor, business, and government generally resolved complaints of antiunion discrimination amicably.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law gives collective bargaining agreements the force of law. Negotiations were conducted freely, often in the presence of government officials by invitation from both unions and employer associations. All workers are under collective bargaining agreements. The law allows all civilian workers, including the civil police, the right to strike, and workers exercised this right by conducting legal strikes. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

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

employment and compulsory education is 16, and no exceptions were granted by the Ministry of Labor and Cooperation. The law does not limit children between the ages of 16 and 18 from any type of legal work activity. The government devoted adequate resources and oversight to child labor policies, and the Ministry of Labor and Cooperation effectively enforced compliance with the law.

e. Acceptable Conditions of Work

The national minimum wage of approximately \$8 (6.7 euros) per hour did not provide a decent standard of living for a worker and family. However, wages generally were higher than the minimum.

The law sets the workweek at 36 hours in the public sector, and 37½ hours for industry and private businesses, with 24 consecutive hours of rest per week mandated for workers in either category. The law requires a premium payment for overtime and allows a maximum of two hours of overtime per day. There was effective enforcement of laws and industry contracts that prohibit excessive compulsory overtime.

The government set safety and health standards, and the judicial system effectively enforced these standards. Most workplaces complied with the standards; however, there were some exceptions. The construction industry did not consistently abide by safety regulations, such as work hour limitations. However, on-the-job injuries declined due to stricter safety rules and more severe penalties for violations imposed by the government, in addition to improved training for the workforce. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and the authorities effectively enforced this right.

Nearly one-quarter of the workforce is nonresident, commuting from nearby Italy. Two laws treat legal foreign workers differently from citizens of the country: the first prohibits indefinite employment status and the state grants a work permit that has to be renewed every 12 months. The second requires non-Italian foreign workers to obtain an Italian residence permit before they can apply for employment. In practice, these provisions limit unemployment benefits for foreigners to a period of less than 12 months.

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