



Additional information

to the interactive dialogue on the combined initial to fifth periodic Report of the Republic of San Marino under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

26 June 2025

Article 1

Article 1 of the Declaration of the Citizens' Rights requires that the legal system shall comply with the rules contained in the International Declarations on human rights and fundamental freedoms and that the rights and freedoms set forth in the ECHR be implemented immediately. Moreover, regularly signed and enforced international agreements on the protection of human rights and freedoms shall prevail over domestic legislation in case of conflict (paragraph 3). As a proof thereof, even though there are no decisions referring to CEDAW, the principles established by it are applied by the Judges. Indeed, the Istanbul Convention - which contains similar principles - is constantly and directly applied by the Court (in criminal matters: e.g. Order no. 4 issued by the Law Commissioner (First Instance Judge) on 4 February 2023 in criminal proceedings no. 574/2022; Order no. 45 issued by the Law Commissioner on 8 September 2023 in criminal proceedings no. 624/2023; in civil matters: judgement no. 116 rendered by the Law Commissioner on 22 May 2023 in civil proceedings no. 459/2017, which also refers to GREVIO's guidelines).

Without prejudice to criminal protection, the victim also has access to civil and administrative justice. Therefore, if the conduct of a family member causes serious harm and if the fact does not constitute a crime prosecutable *ex officio*, it is possible to initiate, at the request of the victim, non-contentious proceedings in which the Judge adopts, at the victim's request, orders for the removal of the perpetrator of violence (including psychological violence) and/or prohibiting the perpetrator from approaching the victim (Article 27 of Law no. 97/2008). The Judge may also order: 1) the intervention of social services or associations that offer support and shelter to the victim (also to their children or relatives); 2) the periodic payment of an allowance by the perpetrator, if the victim (and family members) are left without adequate means of subsistence; 3) the assistance of the Police Forces; 4) the suspension of the perpetrator's parental authority if minors are involved. The same non-contentious proceedings can be initiated following transmission by the criminal Judge or on the basis of reports sent by public authorities (such as social and health services or Police Forces) or other interested parties.

The above instruments may be ordered by the Judge also for contentious proceedings (i.e. separation and divorce cases) that are also accessible to victims.

Protection of women is also possible in the case of discrimination in the workplace. In such a case, it was recognised that the employer had to pay damages because an employee was



discriminated against due to her gender and her pregnancy (judgement no. 24 rendered by Law Commissioner on 21 October 2024 in civil proceedings no. 10/2024).

Free legal assistance by qualified lawyers is provided to the victim in all criminal, civil and administrative proceedings.

Article 5

For the offence of sexual violence (under Article 171 of the Criminal Code) to be established, according to settled case law it is not necessary that the acts are carried out in a violent manner, but the offence is also established when the perpetrator abuses the victim's trust, takes advantage of a position of power or situations familiar to the victim, in respect of whom consent is deemed to be absent even if there is no resistance (i.e. judgement no. 58 rendered by the Law Commissioner on 4 July 2018; judgement no. 60 rendered by the Judge of Appeal on 24 August 2022; judgement no. 27 rendered by the Judge of Appeal on 31 January 2024).

Article 171 of the Criminal Code covers all manifestations related to “sexual acts”, even in the absence of penetration. In any case, penetration (however it occurs) and sexual intercourse are more severely punished (with one degree-increase of punishment) under Article 172(1) of the Criminal Code. Unwanted sexual acts and conduct are in any case prosecuted (Article 171-bis of the Criminal Code).

Annex 4 includes information and data provided by the Court of San Marino.

Article 6

San Marino is a small-sized State (about 61 km²) and an enclave of the Italian Republic, with a population of just over 33,000 inhabitants. Its small territorial dimensions, coupled with a streamlined institutional and administrative system and effective border controls, enable the authorities to carry out thorough and constant monitoring throughout the country. In this regard, it should be noted that the Republic does not have any ports, international airports or other relevant logistical hubs, which in other contexts, may constitute access and transit routes for illicit activities related to trafficking in human beings.

Moreover, migration flows to San Marino are extremely limited and regulated; in recent years, the Judicial Authority, the Police Forces and civil society organisations have never reported or received any reports of situations that could relate to cases of trafficking for the purpose of labour, sexual or other exploitation.

Article 10

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Hereunder is a summary of the data related to 2024 applications concerning the right to study.

Total number of applications: 2,552 (from birth year 2010 to birth year 1991):

- of which for secondary school: 1,550
- of which for university: 1,002 - 536 females and 466 males.

Article 11

Annexes 1, 2 and 3 here attached contain data on employment and unemployment in San Marino. Due to the lack of time, at the moment the Authorities are unable to provide you with aggregated data.

Article 12

Protective custody of women victims of violence is applied in the event of a social emergency for users who do not require medical treatment, and is arranged within a facility of the Social Security Institute (SSI) if it is not immediately possible or appropriate to place the victim in an out-of-territory shelter that has an agreement with the SSI.

In general, the duration of placement in the emergency shelter does not exceed 48/72 hours.

The following step involves the activity carried out by the social worker (also in the absence of a complaint to the Judicial Authority by the victim of violence), who assesses:

- a. the possibility to return home safely;
- b. the need to identify an out-of-territory shelter that has an agreement with the SSI.

Article 15

Legal capacity is acquired at birth. Any agreement aimed at restricting legal capacity is null and void because it has an illicit purpose. Capacity to act - the aptitude to manifest one's will in order to change one's own legal situation - is instead acquired on reaching full age and may be restricted by a judgement rendered by the Judge in case of:

- 1) disqualification due to habitual insanity that prevents a person from being able to attend to his/her own affairs. A guardian is appointed to protect the assets of the disqualified person;
- 2) incapacitation due to reduced capacity. In this case, a curator is appointed for any acts not falling within ordinary matters.

In addition, the punishments applicable following a criminal conviction (pursuant to Article 80 of the Criminal Code) include: disqualification (for a maximum of five years) from public



offices, political rights, a profession or art; loss of parental authority, guardianship or curatorship or the testamentary capacity or removal of any governmental authorisation or licence and the rights deriving therefrom.

Healthcare interventions for persons with mental disorders are regulated by Law no. 57/2009. They must be requested by the attending physician, following a positive opinion from a psychiatrist of the Mental Health Unit. Mandatory health treatment must be validated by the Judge, who may request additional information, if the legal requirements are met (Article 6(1) of Law no. 57/2009). Such treatment is exclusively for the purpose of effective treatment and the patient is guaranteed the rights enshrined in the Oviedo Convention (1997). During such treatment, health care providers are obliged to attempt to obtain the patient's consent and must report back to the Judge. Legal assistance (including by a public defender) of the person undergoing such treatment is granted at all stages, and appeal and judicial review are permitted against the acts carried out.

Article 16

With regard to data on the number of children who have changed their surname to that of their mother, since 2021 the following are reported:

- 5 cases where the surname was added through the Court;
- 4 children with double surnames (mother and father) since birth.