



**PERMANENT MISSION  
OF THE REPUBLIC OF SAN MARINO  
TO THE ORGANISATION FOR SECURITY  
AND COOPERATION IN EUROPE**

Prot.N. 2899/OSCE/CPC

The Permanent Mission of the Republic of San Marino to the OSCE presents its compliments to all Delegations of the Participating States to the OSCE and to the Conflict Prevention Centre and, with reference to the QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY, has the honor to transmit the answers of the Republic of San Marino.

The Permanent Mission of the Republic of San Marino to the OSCE avails itself on this opportunity to renew to all Delegations of Participating States to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.

Vienna, January 8, 2020

Attachment



To  
All Permanent Missions and Delegations to the OSCE  
Conflict Prevention Centre of the OSCE  
**VIENNA**

**ANSWERS OF THE REPUBLIC OF SAN MARINO TO THE  
QUESTIONNAIRE ON THE CODE OF CONDUCT ON  
POLITICO-MILITARY ASPECTS OF SECURITY**

**31 December 2019**

**SECTION I: Inter-State elements**

**1. Measures to prevent and combat terrorism**

**1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combating terrorism is your State a party?**

The Republic of San Marino ratified the following international instruments relating to preventing and combating terrorism:

- Convention on Offences and Certain Other Acts Committed On Board Aircraft, done at Tokyo on 14 September 1963, joined by San Marino on 20 November 2014;
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague December on 16 December 1970, joined by San Marino on 20 November 2014;
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, joined by San Marino on 20 November 2014;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, done at New York on 14 December 1973, joined by San Marino on 20 November 2014;
- Convention against the Taking of Hostages, done at New York on 17 December 1979 joined by San Marino on 20 November 2014;
- Convention on the Physical Protection of Nuclear Materials, done at Vienna on 26 October 1979, and its amendments, adopted in Vienna on 8 July 2005, joined by San Marino on 20 November 2014;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971, done at Montreal on 24 February 1988, joined by San Marino on 20 November 2014;
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988, joined by San Marino on 20 November 2014;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation done at Rome on 10 March 1988 and joined by San Marino on 20 November 2014;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991, and its Declaration, joined by San Marino on 20 November 2014;
- International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997, joined by San Marino on 26 February 2002;
- International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999, ratified on 10 December 2001;
- International Convention for the Suppression of Acts of Nuclear Terrorism, done at New York on 13 April 2005, joined by San Marino on 20 November 2014;
- Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at London on 14 March 2005, joined by San Marino on 20 November 2014;
- Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf supplementing the Convention for the Suppression of Unlawful Acts

Against the Safety of Maritime Navigation done at Rome on 10 March 1988 and joined by San Marino on 20 November 2014;

- Amendment to the Convention on the Physical Protection of Nuclear Material, done at Vienna on 8 July 2005 and joined by San Marino on 20 November 2014.

The Republic of San Marino ratified the following instruments in the field of transnational crime:

- United Nations Convention against Transnational Organized Crime, done at Palermo on 15 November 2000, ratified on 1 June 2010;
- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000, ratified on 1 June 2010;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000, ratified on 1 June 2010.

On 20 November 2006, the Republic of San Marino accepted the Constitution and General Regulations of the International Criminal Police Organization (OICP - Interpol), as adopted by the General Assembly of the Organization during its 25th session (1956 - Vienna) and subsequent amendments. In conformity with the Constitution of the Organization, San Marino has established its own National Central Bureau, responsible for international police cooperation under the agreements in force. This Bureau, under the responsibility of the Minister of Foreign Affairs, liaises with the National Central Bureaus of the other member States, as well as with the General Secretariat of the Organization.

At a regional level, the Republic of San Marino ratified the following instruments:

- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, done at Strasbourg on 8 November 1990, ratified on 18 September 2000;
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, done at Warsaw on 16 June 2005, ratified on 22 June 2010;
- European Convention on the Suppression of Terrorism, signed at Strasbourg on 27 January 1977, ratified on 26 February 2002The Republic of San Marino also signed the following instruments;
- Protocol amending the European Convention for the Suppression of Terrorism, done at Strasbourg on 15 May 2003;
- Convention on Cybercrime, done at Budapest on 23 November 2001, ratified on 21 January 2019;
- Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, done at Strasbourg on 28 January 2003, ratified on 21 January 2019

San Marino has also signed instruments:

- Protocol amending the European Convention for the Suppression of Terrorism, done at Strasbourg on 15 May 2003;
- Council of Europe Convention on the Prevention of Terrorism, done at Warsaw on 16 June 2005;
- Council of Europe Convention on Offences relating to Cultural Property, done at Nicosia on 19 May 2017.

Finally, San Marino ratified the following international instruments in the field of extradition and mutual legal assistance:

- European Convention on Extradition, done at Strasbourg on 13 December 1957, ratified on 4 March 2009;
- European Convention on Legal Assistance in Criminal Matters, done at Strasbourg on 20 April 1959, ratified on 4 March 2009;

- European Convention on the International Validity of Criminal Judgements, done at The Hague on 28 May 1970, ratified on 17 April 2002.

San Marino concluded bilateral agreements with Italy and France on legal cooperation in criminal matters.

### **1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?**

San Marino constantly bears in mind its obligations under international law. The conventions ratified by the Republic of San Marino are deemed to be part of domestic law, as established by Article 1 of the "Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order":

*"The Republic of San Marino receives generally recognised rules of international law as integral part of its constitutional order, to which it shall conform its acts and conduct. It recognises the provisions set forth in the international declarations on human rights and fundamental freedoms.*

*It reasserts the right to political asylum. It rejects war as a means to settle disputes between States and, in its international policy, adheres to the principles enshrined in the Charter of the United Nations.*

*San Marino constitutional order recognises guarantees and enforces the rights and fundamental freedoms set forth by the European Convention for the Protection of Human Rights and Fundamental Freedoms.*

*Regularly signed and implemented international agreements on the protection of human rights and freedoms shall prevail over domestic legislation in case of conflict."*

Therefore, the violation of these international instruments constitutes a violation of domestic law.

### **1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?**

Under Law no. 92/2008, the police authority (Gendarmerie, Civil Police and Fortress Guard), in exercising its powers and duties, shall also conduct, on its own initiative, activities aimed at preventing and combating money laundering and terrorist financing. The three Police Corps are supervised by the Judicial Authority and are entirely accountable to the latter in carrying out their operational activities, although they are fully integrated within national police bodies. With regard to activities carried out in the context of criminal investigations, Police Forces are directly accountable to the Law Commissioner (Article 15 of Law no. 28 of 26 February 2004 "Special investigative measures"). With reference to the powers and duties provided for by their respective regulations, the three above-mentioned corps establish their own policies and strategies in an independent manner and are responsible for controls on the territory and on immigration, as well as for combating organised crime.

In January 2019 the San Marino Parliament unanimously passed a law (Law no. 21 of 31 January 2019 "Establishment of bodies involved in the fight against international terrorism") that provides for the setting up of bodies (Permanent Counter-Terrorism Commission, Counter-Terrorism Squad, Counter-terrorism Crisis Unit) specifically tasked to coordinate San Marino's activities to prevent and combat international terrorism.

The Counter-Terrorism Squad performs the following functions: it defines alert levels in relation to the risk of possible terrorist threats; examines the information acquired by each member of the Counter-Terrorism Squad in the performance of their institutional functions, or otherwise available, in order to plan and develop measures for the prevention of terrorist attacks; mobilises the Counter-Terrorism Crisis Unit in the event of a terrorist attack or if, in the light of the information acquired, it considers such an attack imminent, provides the Crisis Unit with all data or information relevant to the performance of the latter's functions. In the performance of its functions, the Counter-Terrorism Squad shall have full access to sensitive databases and to any other information useful for the purposes of preventing and combating international terrorism. The Counter-Terrorism Squad may also convene the personnel of the individual competent Organisational Units of the Administration in order to acquire relevant information for the definition of the alert levels referred to above. The members of the Counter-Terrorism Squad are also part of the Permanent Counter-Terrorism Commission and are therefore involved in the planning of activities.

According to Article 84 of Law no. 92/2008, which replaces Article 17 of Law no. 28/2004, the Central Bank of the Republic of San Marino shall conduct financial investigations also in cooperation with the Police Forces - subject to the prior authorisation of the Law Commissioner.

With reference to police cooperation, Article 36 of the Convention on Friendship and Good Neighbouring concluded between Italy and San Marino on 31 March 1939 provides for cooperation between the police forces of the two countries.

Moreover, on 29 February 2012, in Rome, an Agreement on cooperation for the prevention and combating of crime was signed between San Marino and Italy. This Agreement allows closer cooperation between the Police Forces of the two States. Indeed, its signature allows direct exchange of information (and answers in real time) between the Police Forces, as well as bilateral cooperation on police training and direct participation in investigations. This Agreement was ratified by San Marino on 3 May 2012

Article 2, paragraph 2 of this Agreement states: *"The Parties shall also cooperate in preventing and countering terrorism in conformity with the national legislation in force in their respective countries and international requirements, including the relevant international Conventions and UN Security Council Resolutions."*

#### **1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining, *inter alia*, to:**

- **Financing of terrorism**

The San Marino counter-terrorism legal framework has undergone significant changes and upgrades in 2019 and since the last report. The counter-terrorism legislation had previously been incorporated into Law no. 92 of 17 June 2008 "Provisions on the prevention and combating of money laundering and terrorist financing" and subsequent amendments and integrations. In view of the evolutions of the phenomenon of terrorism and in order to be in line with the developments in international standards, authorities have undergone work to upgrade and re-structure the San Marino counter-terrorism legal framework. Central in this process was the adoption by Parliament of Law no. 57 of 29 March 2019 "Measures for preventing, combating and suppressing terrorist financing, the financing of the proliferation of weapons of mass destruction and the activity of countries that threaten international peace and security", which complements and in some cases amends previous legislation by creating a specific focus on terrorism and a more targeted and efficient mechanism to combat it. This law has introduced several new elements. First of all, it has set up the Committee for Restrictive Measures (CMR) as the competent authority for the national and international designations of individuals, groups or entities and for the consequent actions, such as removal of their names from the lists and revocation of the measures. In carrying out its functions, the CMR shall collaborate with the Judicial Authority, the Police Authority, the National Central Bureau of Interpol, the Agency<sup>1</sup> and the Public Administrations, also through the request for data or information, or for the production or delivery of acts or documents. The Committee shall also work in conjunction with the Technical Commission for National Coordination, set up in 2009 with the task of facilitating at national level the co-operation, coordination and consultation concerning the development and implementation of AML-CFT policies and legislation and to ensure that the competent authorities review the effectiveness of the AML-CFT system on a regular basis. In performing the functions the CMR shall cooperate, also by exchanging information, also with counterpart foreign authorities.

Law no. 57/2019 has established a more efficient mechanism to submit proposals to the United Nations Security Council or its Committees for listings and de-listings in/from sanction lists and it has also created a national list of individuals and entities to be subjected to financial sanctions because of their engagement or involvement in terrorist activities. Said Law has also introduced the automatic transposition of changes to the sanctions lists created and maintained by the UN Security Council or by its Committees. UNSC resolutions imposing sanctions, including asset freeze, travel bans and arms embargoes, on individuals, groups or entities that pose serious threats to international peace and security continue to become

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<sup>1</sup> "Agency": the Financial Intelligence Agency referred to in Article 2 of Law no. 92 of 17 June 2008 and subsequent amendments; the San Marino FIU.

implemented in San Marino without delay through Decisions of the Congress of State (Government), which clearly indicate the restrictive measures to be enforced and mandates the San Marino competent authorities to implement them. As regards asset freeze, the freezing shall be effective from the date of adoption of the Congress of State decision and, in case of changes to the United Nations lists, from the moment the Foreign Affairs Department and the Agency, the two focal points in this respect, are notified thereof by the United Nations Security Council or one of its Committees. In accordance with Article 14 of Law no.57/2019, the Agency shall immediately notify the Court, the Police Forces, and the Public Administrations responsible for keeping the public registers and the obliged parties of the updates to the United Nations lists and shall transmit the decisions adopted by the Congress of State according to the procedures defined by the Agency. The United Nations lists and the updates are also published in a special section of the website of the Ministry of Foreign Affairs.

As for national freezing actions, the Congress of State upon indication of the CMR, shall, without delay and by means of a decision, order the freezing of assets or funds owned or controlled, wholly or jointly, directly or indirectly, by individuals, groups or entities included in the national list; of assets or funds derived from or generated by funds or other benefits owned or controlled, directly or indirectly, by individuals, groups or entities included in the national list; and of assets or funds of individuals, groups or entities acting in the interest or under the direction of the persons included in the above list. The Congress of State shall act in the same way whenever the CMR, having carried out all appropriate investigations, communicates that it has accepted the request for freezing coming from counterpart foreign authorities. Pursuant to Article 8 of Law no. 57/2019, in accordance with United Nations Security Council Resolution 1373 (2001), the CMR shall be competent to make and receive requests for freezing from counterpart foreign authorities. Pending the adoption of the freezing decisions, in order to ensure the effectiveness of the freezing decisions adopted by the CMR, the latter shall immediately notify such decisions to the Agency, which shall immediately order the blocking of assets or funds subject to the decision of the CMR, unless the Agency has already adopted, on its own initiative, the measures to block funds or suspend operations, pursuant to the relevant provisions of Law no. 92 of 17 June 2008 and subsequent amendments. The Agency's blocking provisions shall also apply to movable and immovable assets entered in the registers of the Public Administrations.

The blocking order issued by the Agency following notification by the CMR shall be effective until the adoption of the decision ordering the freezing of assets and, in any case, for a maximum of ten working days.

To this day, no funds or other assets of individuals and entities or groups included in the Lists have ever been identified in San Marino. Article 1 of Law no. 57/2019 Law defines "assets" or "funds" as:

- c) "assets" or "funds": assets of any kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, however acquired, including payment and credit instruments, any documents or instruments, including electronic or digital, evidencing title to such assets or to dispose thereof; financial and economic resources of any kind, including natural, whether corporeal or incorporeal, tangible or intangible, movable or immovable, acquired in any way, including ancillary assets, appurtenances and interest that may be used to obtain funds, assets or services, as well as any other benefit specified in the Technical Annex to this Law.

The Technical Annex provides some examples of the assets or funds that fall within the above definition, such as cash, checks, bank deposits, interests, dividends or other similar income.

The San Marino Government periodically updates, by means of a decision, the List of high-risk countries, that is, countries with strategic gaps in the prevention and fight against money laundering and terrorist financing that pose serious threats to international peace and security. The last update was with Decision n. 12 of 30 October 2019.

Law no. 57/2019 has also supplemented the San Marino Criminal Code. Article 337ter – "Financing of Terrorism" introduced by Law no. 92/2008 after Art. 337 bis "Associations for the purpose of terrorism or subversion of the constitutional order" has been expanded and detailed more in depth. Provisions on weapons of mass destruction proliferation have been introduced with the addition of two new Articles, namely Article 337 quater "Weapons of mass destruction proliferation" and Article 337 quinquies "Weapons

of mass destruction proliferation financing”, conducts that are considered offences and therefore punishable.

As previously reported, in July 2017 San Marino adopted its National Security Strategy to Combat Terrorism, which encapsulates the various components of San Marino’s approach towards terrorism and is complemented by an Intervention Plan to be deployed in case of a threat – potential or real – of a terrorist attack. The Strategy is divided into four pillars, one of which, “Prevention”, underlines specifically the need to prevent the financing of terrorism. To support the implementation of the Strategy, Law no. 21/2019 “Establishment of bodies involved in the fight against international terrorism”, referred to above, was adopted. Pursuant to this law, the Counter-Terrorism Commission is in charge of updating the Strategy and the Plan in line with the evolving phenomenon of terrorism and the current developments in CFT practices at international level. The Permanent Counter Terrorism Committee thus complements the work carried out so far by the above-mentioned Technical Commission for National Coordination.

An event that was organized jointly by the these two bodies is a workshop entitled “L’azione di contrasto al terrorismo ed all’eversione dell’ordine democratico. Aspetti legislativi e casi pratici” (The fight against terrorism and the subversion of democracy. Legislative aspects and practical cases), which was held in San Marino on 18 April 2019. This workshop brought together judicial and law enforcement authorities, financial monitoring bodies, professional organizations and representatives from various Ministries to discuss terrorism both from a theoretical and a practical perspective and through a comparative lens that analysed also the judicial practice of other countries.

- **Border controls**

The Republic of San Marino is located within the Italian territory and, therefore, shares all its borders with Italy. The Convention on Friendship and Good Neighbourhood between San Marino and Italy of 1939 and its subsequent amendments establishes, *inter alia*, the free movement of nationals between the two States.

Since San Marino does not have any airport or harbour, the control of its borders and its territory (61 square-kilometres) is mainly focused on the checking of travel documents, means of transport and luggage of the persons crossing its borders by land. Such control can be performed by all San Marino police forces.

Although the Republic of San Marino has not acceded to the Schengen Agreement, it is situated within the Schengen area. This means that individuals coming from non-Schengen countries are allowed to enter San Marino territory only if they comply with the provisions enshrined in the Schengen Agreement. Such principle is laid down by Article 5 of Law no. 118/2010 and subsequent amendments:

*"For the purposes of the entry and stay in San Marino's territory, a foreign national coming from a State which is not a member of the Schengen Agreement shall hold, if required, a valid visa for the entry, transit or stay in a Member State of the Schengen area."*

The Republic of San Marino, being a member of the ICPO-Interpol, takes part in international police cooperation initiatives and has access to the international database, which also contains information on false travel documents.

Interpol provides different forms of assistance to its Member States with respect to terrorism, such as:

- transmission of information on terrorist groups and support in the identification of alleged terrorists operating in specific territories;
- assistance in strengthening counter-terrorism capacities of Member States through training and crime analysis;
- assistance in responding to terrorist acts and in investigations, by providing support in the context of analysis and databases;
- promotion of closer cooperation among police corps, customs authorities, intelligence services and armed forces.

Moreover, in 2011 the National Central Bureau of Interpol of the Republic of San Marino concluded a specific arrangement with the Terrorist Screening Centre of the United States of America for the exchange of terrorist screening information.

- **Travel document security**

The Republic of San Marino strictly complies with ICAO rules on the issue of passports, which contain many anti-forgery and falsification standards, including a microchip containing the holder's biometric data. The issuance of passports is centralised and, therefore, is subject to strict controls. No cases of loss or theft of blank passports have been reported.

Police staff has been trained to identify false documents. The use of false documents and the falsification thereof are considered a crime under San Marino legal system.

In addition, Article 34 of mentioned Law no. 118 of 28 June 2010 on the entry and stay of foreigners in the Republic of San Marino establishes that the illegal entry of foreigners in the Republic's territory, or anyone acting in a way as to facilitate it shall be punished with third degree imprisonment (from two to six years). This punishment shall be increased by one degree (from 4 to 10 years) if the fact is committed by using counterfeit, forged or in any case illegally obtained documents.

- **Legal co-operation including extradition**

Extradition is regulated by the Criminal Code and Law no. 41, 31 March 2014. In order to ensure compliance with the commitments undertaken at international level, the Republic of San Marino decided that extradition is governed by the rules contained in the international conventions ratified by the Country, which prevail over domestic legislation.

Following the accession to the above-mentioned international conventions, Art. 8 of Criminal Code was introduced, establishing that "*in no case shall the offences provided for in Art. 337bis (associations aimed at committing actions for the purpose of terrorism) and Art. 337ter (terrorist financing), and the offences committed for the purpose of terrorism or subversion of the constitutional order be regarded as political offences (non-extraditable offences)*".

## **2. Stationing of armed forces on foreign territory**

**Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.**

The Republic of San Marino is a neutral State with a universally recognised vocation to peace and it does not have an army, nor armed forces on the territory of other participating States.

## **3. Implementation of other international commitments related to the Code of Conduct**

**3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.**

The Republic of San Marino has always supported the international and multilateral initiatives in the fields of disarmament and non-proliferation of nuclear, chemical and biological weapons. San Marino reiterates the need to achieve immediate and full disarmament in this field through compliance with and full implementation of multilateral treaties.

San Marino is party to the following disarmament and non-proliferation treaties:

- Treaty on the Non-Proliferation of Nuclear Weapons (NPT);
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC);
- Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, and annexes thereof (CWC);



- Comprehensive Nuclear-Test-Ban Treaty (CTBT);
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (APM Convention);
- Convention on Cluster Munitions (CCM);
- The Hague Code of Conduct against ballistic missile proliferation (HCOC);
- Arms Trade Treaty (ATT);
- Treaty on the prohibition of nuclear weapons (TPNW).

San Marino is also a party to the following space-related treaties:

- Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (PTBT);
- Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Outer Space Treaty);
- Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space.

San Marino on 3 March 1995 and on 7 September 1998 concluded an agreement with the International Atomic Energy Agency on the implementation of the security measures relative to the Treaty on the Non-proliferation of Nuclear Weapons.

On 25 November 2013, the Republic of San Marino became a member of the IAEA.

### **3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.**

The Republic of San Marino regularly cooperates with the United Nations and with the OSCE in replying to requests for information in the fields of arms control, disarmament and confidence- and security-building measures.

## **SECTION II: Intra-State elements.**

The Republic of San Marino has no army, paramilitary forces nor intelligence services. Therefore, some provisions of the Code of Conduct relating to politico-military aspects of security do not apply to San Marino. For this reason, it was not possible to reply to some questions of the questionnaire.

### **1. National planning and decision-making process**

#### **1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?**

Military Corps fall under the authority of Their Excellencies the Captains Regent (Heads of State), the Great and General Council (Parliament), the Minister responsible for the Militia and the Military Congress.

In particular, Article 5 of the Regulations of the Corps of the Gendarmerie establishes that:

*"The Corps of the Gendarmerie falls:*

- 1) under the authority of Their Excellencies the Captains Regent in matters regarding public order and security;*
- 2) under the authority of the Minister of Foreign Affairs as regards recruiting, administration, equipment, armament and all issues related to its proper operation;*
- 3) under the authority of the Court when it acts as judicial police;*
- 4) under the authority of the Military Congress as regards military discipline."*

Article 3 of the Regulations of the Fortress Guard Uniformed Unit provides that:

*"The Fortress Guard Uniformed Unit falls:*

- 1) under the authority of Their Excellencies the Captains Regent in matters regarding public order and security;*
- 2) under the authority of the Minister of Foreign Affairs as regards recruiting, administration, equipment, armament and all issues related to its proper operation;*
- 3) under the authority of the Military Congress as regards military discipline."*

The Great and General Council annually approves, in the State Budget Law, the amount to be allocated to Military and Police Corps.

**1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?**

Not applicable to San Marino.

**2. Existing structures and processes**

**2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?**

See Section II, point 1.1.

**2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?**

See Section II, point 1.1.

**2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?**

Although the Republic of San Marino is a neutral State, it has both professional (Gendarmerie and Fortress Guard) and voluntary (Uniformed Militia and Guard of the Great and General Council) Uniformed Military Corps, which represent the independence of the State.

Military Corps with differentiated tasks (Guard of the Great and General Council and Fortress Guard) were established in 1700, while the Corps of the Gendarmerie was established in 1824.

- *Corps of the Gendarmerie:* It performs all tasks pertaining to Public Security, Judicial, Investigating and Anti-narcotics Police under the authority of the Court, while it performs all other tasks under the authority of the Ministry of Foreign Affairs. Gendarmerie officers are recruited among specifically trained professionals. The Gendarmerie is divided into several units and brigades covering the entire territory.
- *Fortress Guard:* It controls the State borders and protects the Government Building, seat of the Parliament and residence of the Captains Regent, Palazzo Begni and the Numismatic Office. It is also vested with control powers and Customs Police functions.
- *Uniformed Militia:* Together with the Guard of the Great and General Council, it is the most ancient San Marino corps (indeed, it dates back to the 18th century). It takes part in official ceremonies and, in particular circumstances and in case of need, it cooperates with other corps to guarantee order and security.
- *Guard of the Great and General Council:* The Guard of the Great and General Council, also called Noble Guard, was established in 1741 to protect the Captains Regent and the members of the Great and General Council. The Guard accompanies and escorts the Diplomats during the Ceremony for the Presentation of Credentials, as well as foreign Heads of State and Members of Government

during State visits to the Captains Regent. It also organises the guard of honour at the institutional seats on the occasion of official ceremonies. The Guard also serves during the sittings of the Great and General Council, is responsible for flag raising and flag lowering and serves as guard of honour at the thrones of the Captains Regent.

The role and functions of the police forces of the Republic of San Marino are governed by the Regulations of each military corps:

- Regulations of the Corps of the Gendarmerie (Law no. 131 of 12 November 1987, subsequently amended by Law no. 60 of 24 July 1992 and by Law no. 100 of 5 September 1997);
- Regulations of the Fortress Guard Uniformed Unit (Law no. 132 of 13 November 1987);
- Special Regulations of the Fortress Guard- Artillery Unit, approved by the Military Congress on 13 November 2008;
- Special Regulations of the Uniformed Militia, approved by the Military Congress on 12 December 1996;
- Special Regulations of the Guard of the Great and General Council, approved by the Military Congress on 24 September 1997.

The Special Regulations of the Fortress Guard – Artillery Unit, of the Uniformed Militia and of the Guard of the Great and General Council, issued in conformity with Article 7 of Law no. 15 of 26 January 1990 regulating Military Corps, have not the force of law since they were approved by the Military Congress and not by a legislative body.

### **3. Procedures related to different forces personnel**

#### **3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?**

In San Marino neither military service nor civilian service is compulsory.

Enlistment in the Police Forces is voluntary (see Article 9 of Law no. 15 of 26 January 1990). The minimum age for enlistment in the Police Forces is eighteen, in compliance with the requirements provided for in the special regulations of each Force.

Articles 3 and 4 of the above mentioned Law state that all citizens from 16 to 60 years may be called to do military service in case of exceptional general mobilization; these articles are a historical legacy, because such an event has never occurred in the history of San Marino.

#### **3.2 What kind of exemptions or alternatives to military service does your State have?**

In San Marino neither military service nor civilian service is compulsory.

#### **3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?**

The aspects relating to the rights/duties of the members of the Military Corps are necessarily separate for the members of Professional Corps and Voluntary Corps, respectively.

The former perform the military activity as their profession/job. Therefore, they are covered by the provisions of the Armed Forces Comprehensive Regulation, as well as by the Laws and Regulations on the Public Administration which, together with labour law, provide the most effective legislative instruments to protect workers.

With respect to the latter, they shall be subject to the Military Discipline Regulation and the Special Regulations of each corps, which provide for the means of affording protection to individual members.

All members of the Military Corps, without distinction and in the same way as any other citizen, may rely on the Single Court of the Republic of San Marino (Civil, Criminal, Administrative) to appeal against any measure deemed to be harmful to their rights.

#### **4. Implementation of other political norms, principles, decisions and international humanitarian law.**

##### **4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?**

Not applicable to San Marino.

##### **4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?**

The Republic of San Marino adopted Delegated Decree No. 13, 11 February 2015 "Code of conduct for members of Police Forces" establishing the rules of conduct which apply to members of the Gendarmerie, the Fortress Guard, the Civil Police and the National Central Bureau of Interpol. This Law introduced criteria to prevent improper situations, punishing those who do not comply with the principles and the requirements contained therein.

Chapter III, for example, regulates the duties of Police members, their behaviour in carrying out their tasks, their responsibilities, the enforcement of the received orders, specific obligations related to their tasks and the relevant incompatibilities. Members of the armed forces are individually accountable for their conduct.

##### **4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?**

Members of the Military Corps are made aware of the respect for human and civil rights also through *ad hoc* training sessions.

##### **4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?**

Members of San Marino Police Forces fully exercise their civil rights like any San Marino citizen.

Under Article 18 of Law no. 6 of 31 January 1996 (Electoral Law), anyone being a member of the Corps of the Gendarmerie, the Civil Police and the Fortress Guard Uniformed Unit shall not be eligible to be elected as a member of the Great and General Council (San Marino Parliament).

Article 2 of the Regulations of the Corps of the Gendarmerie establishes that "*A member of the Corps of the Gendarmerie shall neither hold any political office, nor carry out any political party activity.*"

### **SECTION III: Public access and contact information**

#### **1. Public access**

##### **1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?**

The answers provided in the Questionnaire on the Code of Conduct are public and the Department of Foreign Affairs is available to provide a copy of the Questionnaire by e-mail upon request.

### **1.3 How does your State ensure public access to information related to your State's armed forces?**

San Marino Police Forces provide transparent information on the data relating to their structure and operation, while adopting appropriate confidentiality and secrecy, especially of sensitive data relating to the operation of the professional Corps.

Every year on 25 March, San Marino celebrates the Police Forces' Day: the population meets the Military Corps and a comprehensive report on the operation of the Forces is presented to the audience.

In recent years, in order to better inform the younger generations about the old military institutions, members of the Police Forces have been giving lectures in schools and students have been invited to visit the Military Commands. Lectures are given by armed forces personnel in uniforms and are aimed at providing information on the specific aspects of San Marino identity and at introducing the tasks and operation of both the volunteer and professional Military Corps.

## **2. Contact information**

### **2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.**

The Ministry of Foreign Affairs acts as *Focal Point* for the implementation of the Code of Conduct and provides necessary information. Contact information to reach Officials of the Ministry of Foreign Affairs:

*Ministry of Foreign Affairs,*  
Palazzo Begni, Contrada Omerelli, 31  
47890 San Marino  
T +378 (0549) 882 227 - F +378 (0549) 882 422  
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