



FSC.EMI/459/12  
20 November 2012

ENGLISH only

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

Prot.N.1297/OSCE/CPC

The Permanent Mission of the Republic of San Marino to the OSCE presents its compliments to the Permanent Missions and Delegations of the Participating States to the OSCE and to the Conflict Prevention Center and has the honor to attach hereafter the answers to the Questionnaire on the Code of Conduct.

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

Vienna, November 20<sup>th</sup>, 2012

Attachments: Code of Conduct Questionnaire



To  
All Permanent Missions and Delegations of the Participating States to the OSCE and  
Conflict Prevention Centre of the OSCE  
**Vienna**

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

**19 November 2012**

**Section I: Inter-State elements**

**1. Account of 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?**

San Marino has been a Party to the United Nations International Convention for the Suppression of the Financing of Terrorism since March 2002 and to the United Nations International Convention for the Suppression of Terrorist Bombings since April 2002.

The Government of San Marino, as a further step, with Decision no.10 dated 21 February 2012, authorised to start the process of accession to the following international instruments relating to terrorism:

- Convention on Offences and Certain Other Acts Committed On Board Aircraft, done at Tokyo on 14 September 1963;
- Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 1971;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, done at Montreal on 24 February 1988;
- UN Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, done at New York on 14 December 1973;
- UN International Convention Against the Taking of Hostages, done at New York on 17 December 1979;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
- Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991;
- International Convention for the Suppression of Acts of Nuclear Terrorism, done at New York on 13 April 2005;
- Amendment to the Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979;
- Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at London on 14 October 2005;

- Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at London on 14 October 2005.

The above-mentioned Conventions and Protocols provide for the adoption by each State of effective measures, both in legal and practical terms, aimed at preventing and combating any illegal act of a terrorist nature. For this reason, the above Conventions and Protocols are currently being studied by San Marino Administration. On September 20 and 21, 2012, the Terrorism Prevention Branch of the UNODC and the Anti Terrorism Unit of the Transnational Threats Department of the OSCE organized jointly in San Marino the “National Legislative Workshop on the Ratification and Implementation of the Global Legal Framework against Terrorism and its Financing”. San Marino officials had an in-depth discussion with UN and OSCE experts on the ratification and implementation of the Universal Anti-Terrorism Instruments to which San Marino is not part yet. The result was the beginning of a process of examination of the domestic legislation by a “contact group” of National experts in view of its adjustment to the provisions contained in the international instruments against terrorism.

On 1 June 2010, San Marino also ratified the United Nations Convention against Transnational Organised Crime (Palermo Convention) and its Additional Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and against the Smuggling of Migrants by Land, Sea and Air. The Palermo Convention and its Protocols became applicable vis-à-vis San Marino on 20 July 2010.

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

- European Convention on the Suppression of Terrorism, done at Strasbourg on 27 January 1977, ratified on 26 February 2002;
- 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 by San Marino on 22 June 2010.

The Republic of San Marino has also signed the following instruments:

- Council of Europe Convention on the Prevention of Terrorism, done at Warsaw on 16 June 2005;
- Protocol amending the European Convention on the Suppression of Terrorism, done at Strasbourg on 15 May 2003.

With regard to extradition and mutual legal assistance, San Marino has ratified the following international instruments:

- European Convention on Extradition, done at Paris on 13 December 1957, ratified on 4 March 2009;
- European Convention on Mutual Assistance in Criminal Matters, done at Strasbourg on 20 April 1959, ratified on 4 March 2009;
- European Convention on the International Validity of Criminal Judgments, done at The Hague on 28 May 1970, ratified on 17 April 2002.

Moreover, on 20 November 2006, the Republic of San Marino accepted the Constitution and General Regulations of the International Criminal Police Organization (OICP – Interpol), 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, with the task of implementing international police cooperation under the agreements in force. The Bureau, which is accountable to the Minister of Foreign Affairs, ensures connection with the bodies of the other member States acting as National Central Bureaus, as well as with the General Secretariat of Interpol.

At a bilateral level, San Marino has concluded extradition treaties with the following countries: United Kingdom (10 October 1899), Netherlands (7 November 1902), Belgium (15 June 1903), United States (10 January 1906 and 10 October 1906), France (30 April 1926), Italy (31 March 1939), Pakistan, Uganda and Kenya (6 August 1965), Malawi (6 January 1967), Swaziland (4 June 1970) and Lesotho (5 October 1971).

With regard to mutual legal assistance in criminal matters, San Marino has signed bilateral agreements with Italy and France.

### **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.

Moreover, in compliance with the international obligations undertaken by the Republic of San Marino to counter terrorism, terrorist financing and the activity of Countries threatening international peace and security, San Marino authorities have adopted a number of regulatory instruments and administrative measures. The primary legislation on the prevention and countering of money laundering and terrorist financing is Law no. 92 of 17 June 2008 "*Provisions on the prevention and combating of money laundering and terrorist financing and subsequent amendments*"<sup>1</sup>.

### **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?**

According to 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.

Moreover, 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.

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<sup>1</sup> The consolidated text is available at: <http://www.aif.sm/on-line/en/Home/documento26044.html>

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.

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 legal framework governing the fight against money laundering and financing of terrorism is based on Law No.92 of 17 June 2008 "*Provisions on Preventing and Combating Money Laundering and Terrorist Financing*" (hereafter AML-CFT), as amended by Law 73 of 19 June 2009, Decree-Law No. 134 of 26 July 2010 and Decree-Law No. 187 of 26 November 2010 (Ratifying Decree Law No. 181 of 11 November 2010).

Article 36 "*Reporting requirements*" of said AML-CFT Law and subsequent amendments, sets forth the obligation to report suspicious transactions to the Financial Intelligence Agency (FIA), for the purpose of preventing and combating money laundering and terrorist financing. In particular, Article 36, para.1, provides that the following transactions shall be reported without delay to the Agency:

*"a) any transaction - even if not carried out – which, because of its nature, characteristics, size or in relation to the economic capacity and activity carried out by the customer to which it is referred, or for any other known circumstance, arouses suspicion that the economic resources, money or assets involved in said transaction may derive from offences of money laundering or terrorist financing or may be used to commit such offences;*

*b) anyone or any fact that, for any circumstance known on the basis of the activity carried out, may be related to money laundering or terrorist financing;*

*c) the funds that the obliged parties know, suspect or have grounds to suspect to be related to terrorism or may be used for purposes of terrorism, terrorist acts, terrorist organisations and by those financing terrorism or by an individual terrorist."*

Article 37 "*Possibility to report*" of the AML-CFT Law and subsequent amendments establishes that anyone can report to the Agency facts or circumstances relevant to the preventing and combating of money laundering and terrorist financing. More specifically, Articles 19 and 20 of the AML-CFT Law and subsequent amendments provide that, besides financial parties, also non-financial businesses and professionals are subject to reporting and identification obligations.

In particular, further procedures and guidelines for the implementation of the legal and operational anti-money laundering and counter financing of terrorism regime are provided by the following regulatory measures issued by FIA:<sup>2</sup>

- a) Instruction 2009-04 "Identification to be carried out through third parties and ways of transmission of documents and information referred to in Article 29 of Law no. 92 of 17 June 2008";
- b) Instruction 2009-05 "Ways for the fulfilment of the obligations referred to in Article 22, paragraph 1, letter b)" on beneficial ownership;

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<sup>2</sup> These instructions are available online at:

<http://www.aif.sm/on-line/en/Home/Legislationinforce/cardCatRegulationitalianversion.446.1.100000.2.html>

- c) Instruction 2009-06 "Requirements of customer due diligence, record keeping and suspicious transaction reporting for the professional practitioners referred to in article 20 of Law no. 92 of 17 June 2008" on AML-CFT requirement for Professionals;
- d) Instruction 2009-07 "Typologies of suspicious transactions and procedures for the examination of transactions referred to in article 36 of Law no. 92 of 17 June 2008" on suspicious transactions requirements;
- e) Instruction 2009-08 "Enhanced due diligence procedures for customers resident or located in countries, jurisdictions or territories subject to strict monitoring";
- f) Instruction 2009-09 "Requirements of customer due diligence, record keeping and suspicious transaction reporting for the professional practitioners referred to in article 20 of Law no. 92 of 17 June 2008" on AML-CFT requirement for Non financial parties";
- g) Instruction 2009-10 "Data and information that shall be registered and maintained according to article 34, paragraph 1 of the Law 92/2008";
- h) Instruction 2010-03 on "Provisions implementing FATF Special Recommendation III";
- i) Instruction 2010-04 on "Provisions implementing FATF Special Recommendation IV- Indicators of suspiciousness";
- j) Instruction 2010-05 on "Identification of the beneficial owner of foundations and associations";
- k) Instruction 2010-06 on "Identification of the beneficial owner of Trust".

These regulations are binding provisions and some of them are aimed at implementing AML-CFT legal requirements. Criminal and administrative sanctions are set out by Article 53 through 67 of the AML-CFT Law for any breach in the implementation of the Instructions.

In 2010, the San Marino competent authorities reviewed the existing laws and regulations on foundations and non-profit organizations (NPOs) and introduced some new special provisions with Articles 37 and 38 of Law No. 129 of 23 July 2010. These two articles require associations, foundations and other non profit organisations to register data and information regarding funding and funds received and their use. Furthermore, these entities are also required to keep at their registered office a Register containing the names of their associates and members. By 31 December of every year, foundations are also required to submit a list of their members to the Commercial Registry of the Single Court so as to allow the Court to update the Registry containing the names of members of associations, foundations and NPOs. Article 38 sets out additional requirements for foundations, such as the reporting of the initial contributions making up the endowment fund and to deposit with the Commercial Registry the documentation attesting that contributions have been made within 60 days from their allocation or from the date when the will was made public, as well as any deed relating to further contributions enlarging the fund within the same time limit. Failure to comply with information reporting, keeping and filing requirements shall lead, provided the fact is not criminally relevant, to an administrative penalty of € 2,000.00, for any single violation.

On 23 July 2009 an awareness-raising and information campaign on the risk of money laundering and terrorist financing associated with the non-profit sector directed at the most representative volunteer associations was held at the Financial Intelligence Agency offices. The FIA prepared a specific questionnaire in order to better assess the risk of ML and the abuse of associations and foundations to this aim.

On 8 July 2010 FIA issued Instruction No. 2010-05 providing principles to be followed to identify the beneficial owners of Foundations and Associations.

Article 34 and 35 of the AML-CFT Law, as amended and implemented with Instructions, concerning, respectively, information and record keeping and registration requirements and the anti-money laundering Electronic Archive, have also improved the record keeping regime.

Article 46 of the AML-CFT Law provides that, in compliance with the international obligations undertaken to counter terrorism, terrorist financing and the activity of States threatening international peace and security, the Government, upon proposal by the Ministries for Foreign Affairs and for Finance and the Budget, shall adopt a Decision concerning the restrictive measures under the resolutions of the United

Nations Security Council or one of its Committees. Such restrictive measures also include the freezing of funds and economic resources held or controlled, directly or indirectly, by persons, entities or groups included in the lists drawn up by the relevant United Nations Committees.

The freezing of funds and economic resources takes immediate effect on the date of the adoption of the Government's Decision and does not need to be validated by the judicial authority.

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.

The effects of the freezing of funds and economic resources are governed by Article 47 of the AML-CFT Law. This Article, as amended, provides that the funds and economic resources subject to freezing cannot constitute the object of any transfer, holding or use. It is also prohibited to make funds or economic resources available, directly or indirectly, to subjects included in the lists drawn up by the appropriate Committees of the United Nations or to allocate them for their benefit. Contrary acts are null and void.

Article 1 of the AML-CFT Law defines "assets" or funds" adequately as :

*"property of every kind, whether tangible or intangible, movable or immovable, including means of payment and credit instruments, documents or instruments in any form, including electronic or digital, evidencing title to, or interest in such property; economic resources of every kind, whether tangible or intangible, movable or immovable, 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".*

Under Article 2 of the Technical Annex to the AML-CFT Law, the terms "assets" or "funds" are defined as:

*"property of every kind, whether tangible or intangible, movable or immovable, including means of payment and credit instruments, documents or instruments in any form, including electronic or digital, evidencing title to, or interest in such property".*

The custody, administration and management of property or funds subject to freezing is regulated by Delegate Decree no. 137 of 31 October 2008 "*Regulations for the safekeeping, administration and management of frozen economic resources*".

The freezing mechanism and procedures have been better detailed by FIA Instruction No.2010-03 issued on 4 June 2010 in accordance with relevant UNSCRs and on FATF Best Practices. Considering that the implementation of the freezing mechanism is treated always as a matter of urgency, it can be useful to note that FIA Instruction no. 2010-03 provides also for a domestic parallel procedure in order to communicate freezing mechanism and actions to the financial sector and other obliged entities, not only immediately upon taking such action, but also before doing so by anticipating via e-mail the content of the UNSCRs to all the involved entities.

Furthermore, FIA issued a detailed document "*Guidelines on FATF Special Recommendation III*"<sup>3</sup> in order to increase the knowledge on restrictive measures and its implementation in the San Marino Jurisdiction.

The role of national coordination mechanism for freezing purposes lies with the Committee for Credit and Savings (CCS)<sup>4</sup>. The CCS has also been assigned the role of designated authority and authority responsible for the implementation of restrictive measures of the UNSCRs.

In particular, said Committee has the following functions laid down in Art. 49, paragraphs 2-6 of AML-CFT Law:

*"2. In case of repeal of a freezing order under article 46, paragraph 4, the Committee for Credit and Savings shall take the necessary actions to return the assets to the rightful owner or, in cases involving registered movable or immovable assets, to register the unfreezing order in the public registers.*

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<sup>3</sup> <http://www.aif.sm/on-line/en/Home/RestrictiveMeasures/documento25978.html>

<sup>4</sup> The Committee for Credit and Savings is an administrative body composed of 5 Ministers and is chaired by the Minister for Finance and Budget. When covering AML-CFT issues, also a judge appointed by the Judicial Council, the Director of the FIA and a representative appointed by the Commanders of the Police Forces participate in its meetings.

3. *The Committee for Credit and Savings may authorize - upon completion of the procedure referred to in paragraph 4 hereunder - that the frozen assets or property be used to meet the fundamental needs of the persons included in the lists referred to in article 46 or a family member, including payments for foodstuffs, medicines, housing, medical care and legal assistance. The Committee for Credit and Savings may similarly authorize that the frozen assets or property be used to pay taxes, duties, compulsory insurance premiums and bank charges for the maintenance of accounts.*

4. *The authorization requested referred to in the previous paragraph shall be notified to the competent United Nations Security Council Committee. The authorization cannot be granted if the competent United Nations Security Council Committee takes a contrary decision.*

5. *The Committee for Credit and Savings shall formulate proposals to the competent International Organisations for including persons, entities or groups in the lists, on the basis of the information provided by the Agency and other national authorities, according to the criteria and procedures set forth in the United Nations resolutions.*

6. *The Committee for Credit and Savings shall formulate proposals to the competent International Organisations, according to the criteria and procedures set forth in the United Nations resolutions, for de-listing, also on the basis of requests submitted by the parties concerned."*

Government's Decision no. 6 of the 29 May 2009 established a Technical Commission for National Coordination (subsequently included in the AML-CFT Law as Article 15 bis) to facilitate 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. The Commission is entrusted with the task of assisting the Committee for Credit and Savings in order to identify and develop technical lines of action. It gathers representatives of the Single Court, the FIA, the Central Bank, law enforcement authorities and a representative of the Ministries for Foreign Affairs, Finance and Justice.

#### **- 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 Center 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.

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

**2.1 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;
- The Hague Code of Conduct against ballistic missile proliferation.

San Marino is also 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.

Moreover, 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.

### **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 or intelligence services. Therefore, some provisions of the Code of Conduct relative to political and military aspects of security do not apply to San Marino. For this reason, it was not possible to reply to some questions included in 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 Tier 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 there exists neither a mandatory military service nor a mandatory civil service.

Recruitment in the Police Corps has always been voluntary (see Article 9 of Law no. 15 of 26 January 1990) starting from 18 years of age, in conformity with the requirements set forth in the Special Regulations of the single Corps.

The provisions of Articles 3 and 4 of the above-mentioned Law establish that all citizens from 16 to 60 years of age must serve in the military in the exceptional case of general mobilisation. However, such a circumstance has never occurred throughout the history of the Republic of San Marino.

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

In San Marino there exists neither a mandatory military service nor a mandatory civil service.

#### **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 Organic 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?**

Not applicable to San Marino.

##### **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?**

The members of the Military Corps are made aware of the respect for human and civil rights also through *ad hoc* training sessions. On 21 and 22 October 2009, the Ministry of Foreign Affairs, in cooperation with *Scuola Superiore Sant'Anna* of University and Master Studies (Pisa - Italy), organised training courses addressed to judges, lawyers and police forces, on the protection of human rights and relevant monitoring.

##### **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?**

The 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**

##### **1.1 How is the public informed about the provisions of the Code of Conduct?**

**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 act in full transparency with respect to access to data concerning their structure and activities, adopting that level of confidentiality and secrecy required by particular circumstances, especially in respect of sensitive data concerning the activities of the Professional Corps.

Every year, on the occasion of the Militia Day (on 25 March), when the population "meets" the Military Corps, a comprehensive report on the activities of the Corps is publicly provided.

With a view to informing younger generations more directly about such centuries-old military institutions, every school year, upon prior request and according to a schedule agreed in advance, lessons are organised at schools or students visit the various military headquarters. The meetings take place in the presence of military personnel wearing the official uniform in order to transmit some distinctive features of our identity as a State and to raise the awareness and knowledge about the functions and activities of the voluntary 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 Department of Foreign Affairs can serve as the national point of contact for the implementation of the Code of Conduct and the provision of required information:

*Department of Foreign Affairs*

*Palazzo Begni - Contrada Omerelli, 31 - 47890 San Marino*

*T +378 (0549) 882 156 - F +378 (0549) 882 422*

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