

**THE LEGAL SYSTEM
OF THE
MOST SERENE REPUBLIC
OF SAN MARINO**

By

JACK E. BIRD, C.P.A., J.D.

CHAPTER EIGHT

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CHAPTER EIGHT

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§ 1.1. Introduction.

San Marino, the world's smallest republic, is located in rugged mountains on the Adriatic-side of central Italy between the Romagna and Marche regions. It is totally surrounded by the Republic of Italy. The Republic of San Marino has an area of 61 square kilometers, rising to a peak at Mount Titano, 700 meters above sea level. The territory has an irregular rectangular form with a maximum length of 13 kilometers.

The climate is mild and temperate with temperatures ranging from -7°C in the winter to 26°C in the summer. Vegetation is typical of the Mediterranean with variations due to altitude.

The population was 21,537 in 1980. Most citizens are Roman Catholic and have the same ethnic origins as the neighboring Italian populace. The language spoken by Sammarinesi is Italian.

The capital is the City of San Marino, while Borgo Maggiore is the center for commercial activity. Serravalle is the Republic's only other town.

§ 1.2. History.

According to local tradition, San Marino was founded in 301 A.D. by a Christian stonecutter named Marinus as a refuge from religious persecution by the Roman Emperor Diocletian. By 885 A.D., the Republic was independent and had a written Constitution and a codified set of laws. During the 11th Century, San Marino became a commune and expanded over adjacent territory. Neighboring bishops and lords encroached on Sammarinese territory, but were unsuccessful in subjugating the tiny Republic, largely due to its isolation and mountain fortresses.

By the middle of the 15th Century, the Republic was ruled by a Grand Council consisting of 60 men taken from the Arengo, or assembly of families. Briefly occupied by Cesare Borgia in 1503 and Cardinal Albinoni in 1739, San Marino survived as a relic of the independent Italian city-states.

Napoleon respected the independence of the Republic, and offered to extend its territory in 1797. The Congress of Vienna also recognized its independent status in 1815. During the 19th Century movement for Italian unification, San Marino was a refuge to many exiles and fugitives, including Guiseppe Garibaldi, his wife, and associates, after the fall of the Roman Republic in 1849.

In 1906, a bloodless revolution restored the old system of electing the Grand Council by Arengo. In 1920, the Arengo was enlarged to include almost all adults. Political parties have generally followed in step with Italy. During Mussolini's reign in Italy, a local Fascist organization ruled San Marino. After Mussolini's fall in 1943, the Republic's government became anti-Fascist.

After World War II, a Communist-Socialist coalition was elected in San Marino. The inclusion of the Communists in the government led to strained relations with Italy's anti-Communist regime. In 1957, due to defections in the Socialist ranks following the bloody

Hungarian uprising, the coalition lost its majority to the opposition forces of the Popular Alliance (primarily Christian Democrats and Social Democrats). The Communist and Socialist regents attempted to dissolve the Grand Council and called for new elections. However, the Popular Alliance formed a new government which received immediate recognition from the United States and Italy. Subsequently, Italian military police blockaded the borders and, after a few weeks, the Popular Alliance was able to assume power peacefully. The Popular Alliance gained clear majorities in the general elections of 1959, 1964, and 1969. From 1973 to 1978, the Christian Democrats governed in coalition with the Socialists. In 1978, the Socialists and Communists returned to power in a coalition government.

San Marino's destiny is of necessity closely tied to Italy's. In 1862, San Marino and Italy concluded a customs union and a treaty of friendship with the newly formed Kingdom of Italy, which has been renewed periodically.

§ 1.3. Economy.

San Marino has no mineral resources as the sites for the centuries long quarrying of Mount Titano stone have been exhausted. The principle economic activities in the country are farming and livestock raising, along with some light manufacturing.

Tourism is the principle source of foreign exchange. During the summer months, 20,000-30,000 foreign tourists visit San Marino daily.

Industry employs approximately 3,000 workers and produces building materials, metalwork, paper, paints and varnishes, textiles, clothing, rubber, furniture, ceramics, china and liqueurs. Agriculture produces wheat, corn, and barley.

The government derives most of its revenue from the sale of postage stamps to worldwide collectors and from payments of an annual budget subsidy by the Italian government under the terms of the Republic's treaty with Italy. San Marino receives this subsidy in return for (1) banning tobacco cultivation and the production of other goods protected by Italian state monopoly; (2) agreeing not to print its own currency; (3) agreeing not to open a radio or television broadcasting station; and (4) agreeing not to open gambling facilities.

Small amounts of government revenue is earned from the once-booming business of selling noble titles to foreigners for profit. The Statue of Liberty in the center of the capital's main square was a gift in 1876 of an English woman who was crowned Duchess of Acquaviva after spending two weeks in the country.

§ 1.4. Government.

The San Marino Constitution is derived from the Statutes of 1600. Legislative authority is vested in a unicameral parliament, the Great and General Council, consisting of 60 members who serve five-year terms unless a majority votes to dissolve and call for new elections.

Executive authority is exercised by the 11-member Congress of State, composed of nine members chosen by the Great and General Council and two Captains Regent. The Captains Regent are elected by the Council from among its members for six-month terms. A Captains Regent may not be elected again until three years has elapsed. Their functions are largely honorary, although they preside over meetings of the Council and the Congress, and are empowered to propose legislation and to represent San Marino in its foreign relations. The Captains Regent are assisted by two secretaries of state (foreign

affairs and internal affairs) and by several additional secretaries entrusted with specific portfolios.

The members of the Congress of State head the various administrative departments in the government. The posts are divided among the parties who form the coalition government. The Secretary of State for Foreign Affairs has traditionally taken the role of a prime minister.

Membership in the Great and General Council is based on proportional representation and is selected from nominee lists submitted by the political parties. Since 1960, all adult citizens, including women, have been given the right to vote. In 1973, women were also given the right to run for public office.

§ 1.5. Judicial System.

Judicial authority is in judges who must not be San Marino citizens. Minor cases are handled by a local conciliatory judge. Appeals go, in the first instance, to an Italian judge residing in Italy; the final court of review is the Council of Twelve—judges chosen for six-year terms (four every two years) from among the members of the Great and General Council.

§ 1.6. Taxation.

For taxation purposes, San Marino is divided into eleven districts corresponding to the country's Roman Catholic parishes. For administration, it is divided into nine "castles." The head of each castle is an elected committee led by a "Captain of the Castle." New Captains are chosen every six months, on the same day as Captains Regent.

§ 1.7. Military Corps and Police Force.

San Marino has military corps (the Great and General Council Guard, the Uniformed Militia, and the Fort Guard) which serve during ceremonial occasions.

A national defense force is composed of all able-bodied citizens between 16 and 51, except students, teachers and certain others.

Public order is maintained by the gendarmerie.

§ 1.8. Foreign Relations.

Despite its close ties to Italy, San Marino has maintained an independent stance for centuries. San Marino has signed the outer space treaty and the nuclear non-proliferation treaty. The Republic is a member of the Universal Postal Union (UPU), the International Court of Justice (ICJ), the International Red Cross, the U.N. Conference on Trade and Development, the International Institute of Administrative Sciences, the International Institute for Unification of Private Law, the Official Tourist Organizations International Union, the International Union for Protection of Industrial Property, the International Relief Union, the Military Medicine and Pharmacology International Committee, the European Conference of Postal and Telecommunication Administrations, UNESCO, and the World Health Organization (WHO). The Republic also maintains permanent observer missions at the U.N. Mission in Geneva, the Intergovernmental Committee for European Migration, and the International Labor Office.

San Marino has reciprocal consular relations with many countries, including the United States.

§ 1.9. Recent Developments.***§ 1.9(A). EC Agreement.**

On July 4, 1991, in Brussels, the Republic of San Marino and the European Commission drafted a Customs Union and Co-operation Agreement. At the present time, the Agreement is to last for five years but can be extended. Pursuant to the Agreement, a customs union is established between the two parties and applies to all materials covered by the European Community Treaty. The Agreement is a standard one and provides for the following:

1. An exemption from duties on both imports and exports between the two parties (with the exception of an import tax currently applied by San Marino);
2. A ban on any type of quantitative restriction or similar measure between the two parties; and,
3. The obligation of San Marino to apply the common agricultural regulations and trade policy as well as the common customs tariff to non-community countries (with the exception of refunds for exports and compensatory amounts regarding exports).

In addition, the Agreement envisions co-operation in the areas of the environment, industry, services, tourism, and culture and includes a social component pertaining to equal treatment for workers from the community and San Marino.

San Marino officially joined the European Community Customs Union on December 16, 1991. As previously mentioned, the Agreement brings San Marino into community customs territory with the exception of not subjecting San Marino to agricultural levies or compensatory amounts.

§ 1.9(B). United Nations General Assembly Membership.

By acclamation the week of March 6, 1992, the United Nations General Assembly officially recognized San Marino as a full member of the world organization. For San Marino, this action represents the final step in a seventeen-century struggle for international acceptance. San Marino will now seek membership in the International Monetary Fund.

* The editors wish to thank Liz Higginbotham, J.D. candidate, for her work on this update.