



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION**

Initial reports of States parties due in 1993

SAN MARINO

[25 April 2002]

Introduction

1. This report, drawn up pursuant to the general guidelines regarding the form and content of the initial reports to be submitted by States parties under article 44, paragraph 1 (a), of the Convention on the Rights of the Child, was prepared by the Ministry of Foreign Affairs, in collaboration with other competent ministries and government offices.
2. With regard to the protection of children, the Republic of San Marino has comprehensive domestic legislation. However, the accession to the Convention on the Rights of the Child led San Marino authorities to further enhance the existing legislation.

I. GENERAL INFORMATION

3. The Republic of San Marino is geographically located within Italy, between the provinces of Rimini (Emilia-Romagna) and Pesaro (Marche). Its territory covers an area of 61.19 km² on the slopes of Mount Titano and has a perimeter of 39.03 km.
4. Administratively speaking, the territory is divided into nine municipalities (*Castelli*): Acquaviva, Borgo Maggiore, Chiesanuova, Citta' di San Marino (the capital), Domagnano, Faetano, Fiorentino, Montegiardino, Serravalle.
5. Population figures, as of December 2000, reached 26,941. Population density is about 440 inhabitants per km². More than 4,000 are citizens of other countries, above all Italians. About 13,000 Sammarinese citizens reside abroad; the largest communities are in the northern regions of the United States, France, Argentina and, of course, Italy.
6. The majority of the population are Roman Catholics.
7. The literacy rate is estimated at 100 per cent. Schooling in San Marino is compulsory up to the age of 16. Younger generations tend to be highly educated: 35 per cent complete secondary school, 8 per cent obtain a university diploma (2000 data). In 1999 per capita expenditure per student was 9,060.35 euros.
8. Life expectancy in San Marino is among the highest, 77.4 years for men and 84 years for women. The birth rate is 1.08 per cent and the mortality rate is 0.7 per cent. On average, the population grew by 1.5 per cent annually from 1995 to 2000.
9. The number of households is 11,166 and the average number of members per household is 2.4 people (2000 data).

Table 1. Natural demographic development

Year	Marriages	Live births	Deaths	Natural increase	Stillborns	Deaths in the first year of life		Rates						
								per thousand inhabitants, mid-period				% births	% live births	% births
						Total	In first month	Marriage rate	Birth rate	Mortality rate	Natural Increase	Stillbirths	Infant mortality	Perinatal mortality
1980	133	239	166	73	4	4	5	6.20	11.15	7.74	3.41	16.46	32.92	16.70
1981	146	217	163	54	3	2	3	6.75	10.04	7.54	2.50	13.64	22.73	13.82
1982	181	237	157	80		1	1	8.28	10.84	7.18	3.66		4.22	4.22
1983	168	245	163	82	1	1	1	7.60	11.10	7.40	3.70	4.07	8.10	4.08
1984	189	223	156	67	1	1	1	8.50	10.00	7.00	3.00	4.06	8.90	4.45
1985	202	207	188	19		3	3	9.00	9.25	8.40	0.80		14.50	14.50
1986	172	179	171	8	1	1	1	7.60	7.90	7.60	0.40	5.60	11.10	5.60
1987	198	220	154	66	1	3	3	8.70	9.70	6.80	2.90	4.50	18.10	13.60
1988	181	242	187	55		3	3	8.00	10.70	8.30	2.40		12.40	12.40
1989	169	231	173	58	1	4	5	7.40	10.10	7.60	2.50	4.30	21.50	21.60
1990	183	266	155	111		1	1	7.90	11.50	6.70	4.80		3.80	3.80
1991	179	257	171	86	1	4	2	7.60	10.90	7.30	3.60	3.80	15.50	11.60
1992	205	237	172	65		2	2	8.60	10.00	7.20	2.70		8.40	8.40
1993	189	244	145	99				7.80	10.10	6.00	4.10			
1994	180	268	184	84	1	2	1	7.40	10.90	7.50	3.40	3.70	7.50	11.20
1995	218	244	186	58		3	3	8.80	9.80	7.50	2.30		12.30	12.30
1996	191	282	173	109		3		7.50	11.10	6.80	4.30		10.60	3.60
1997	233	287	178	109	3			9.10	11.20	6.90	4.20	10.30		10.30
1998	214	285	190	95		4	1	8.20	10.90	7.30	3.60		14.00	3.50
1999	231	303	198	105	1	1	1	8.80	11.50	7.50	4.00	3.30	3.30	6.60
2000	193	290	188	102	2			7.20	10.80	7.00	3.80	6.80		6.80

II. GENERAL IMPLEMENTATION MEASURES (arts. 4, 42, 44.6)

10. San Marino acceded to the Convention by decision of the Great and General Council (the Parliament of the Republic) in 1991, on the basis of a study which revealed that its national law complied with the principles of the Convention.

11. The Republic's legal system pertaining to minors and relations between parents and children has been further strengthened by the Convention which has the force of compulsory international legislation. Its provisions are exegetic tools for the interpretation of future laws. Moreover, it has led to a more limited application of San Marino *ius commune* in this field.

12. The accession of the Republic of San Marino to the Convention was widely covered by the local press and a publication containing its full text, in Italian, was sent to all families.

13. Subsequently, the principles enshrined in the Convention on the Rights of the Child have been further promoted by means of several initiatives specially organized within schools such as contests, conferences and theatrical performances. The tenth anniversary of the Convention was commemorated with the publication in 1998 of Velimir Milosevic's book, U svijetu pravde diecje (The Rights of the Child), translated into Italian and containing 40 poems, each dedicated to the 40 articles of the Convention. This book was handed out to all San Marino families.

III. DEFINITION OF THE CHILD

Article 1

14. Law No. 15 of 25 June 1975 fixes majority at age 18. Article 4 of Law No. 49 of 26 April 1986, "Reform of Family Law", provides that minors cannot contract marriage unless a judge, after consulting the holders of parental responsibility, establishes that there are serious grounds for authorizing a minor of at least 16 years to marry. A minor who has been authorized to marry is entitled to perform all transactions set forth by the same law.

15. Parents exercise parental authority over the minor until he/she reaches the age of 18 years, or following emancipation. Parental authority is exercised by both parents jointly. In case of disagreement, a judge may be requested to intervene. After having heard both parents and the minor, provided he/she has reached the age of 14 years, the judge shall make the decision in the best interests of the child. Failing an agreement, the judge grants the decision power to the parent who, in his/her opinion, can best safeguard the child's interests.

16. Parents are the legal representatives of their minor children and administer their property. In case of unfair administration, the Law Commissioner may take temporary measures, ex officio, in favour of the minor. The loss of parental authority can be decided only by a judge when a parent seriously neglects his/her duties or abuses his/her authority to the detriment of the child.

17. In case of separation, annulment or dissolution of marriage, only the parent who has been awarded the custody of children exercises parental authority. The most important decisions in the children's interests shall be made by both parents jointly. In case of disagreement, the intervention of a judge may be requested. Failing a solution, the decision shall be made by the parent who has the custody of the children.

18. Article 10 of San Marino Penal Code sets forth that a child under the age of 12 cannot be charged with a crime. With regard to a minor who has reached the age of 12 but is less than 18, the judge, after having ascertained his/her mental capacity, shall sentence him/her to a reduced punishment. A mitigation of the punishment may also be granted to anyone who was under the age of 21 when committing the crime.

19. Education is compulsory until the age of 16. Those having parental responsibilities or legal guardianship shall oversee the effective fulfilment of this obligation. To ensure the effective implementation of this provision, employers are not allowed to hire workers under the age of 18 or who have not been released from compulsory schooling. In San Marino there is no compulsory military service.

IV. GENERAL PRINCIPLES

Article 2

Non-discrimination

20. The principle of equality inspiring this article is sanctioned by article 4.1 of Law No. 59 of 8 July 1974 "Declaration on Citizens' Rights and Fundamental Principles of the San Marino Constitutional Order", stating that: "All citizens are equal before the law, without distinction on grounds of personal, economic, political or religious status."

21. It should be noted that the Republic is a party to many international conventions containing provisions on the principle of non-discrimination.

Article 3

Best interests of the child

22. The “*favour*” principle, which shall apply to all issues concerning children, is implicitly contained in San Marino national law. In this regard, it should be noted that the San Marino Penal Code guarantees the minor defendant the right to have legal assistance for his/her defence at all stages of the proceedings. Moreover, several provisions of the above-mentioned “Reform of Family Law” specifically consider the interests of the minor, in particular, in case of adoption and custody of children, as well as separation of parents.

23. With reference to the commitment undertaken by States parties to ensure the protection and care necessary for the child’s well-being, Law No. 21 of 3 May 1977 on the Social and Health Care Service established a specific body, called the Minor Service, in charge of providing minors with medical and social care, as well as psycho-pedagogical assistance, until the age of 18 years.

Article 6

Right to life, survival and development

24. Right to life forms part of the inviolable human rights set forth in article 5 of the above-mentioned 1974 Declaration on the Citizens’ Rights.

25. To ensure that newborns receive the necessary care by working parents, Law No. 111 of 15 December 1994 grants working mothers the right to leave, with a reduced salary, until children have attained the age of 1 year. During such period their job will be kept open for their return. If the working mother declines to take advantage of that possibility, once the compulsory maternal leave has expired, she is entitled to a daily two-hour paid leave during the 10 following months, and in any case until the child has attained the age of 1 year.

26. Under Law No. 112 of 16 December 1994, either the father or the mother may request that their full-time job contract be transformed into a part-time one until their child has attained the age of 3 years.

27. The Penal Code punishes any pregnant woman resorting to procured abortion and anyone assisting her. The Penal Code also punishes anyone procuring abortion, even if the woman has attained majority and has expressed her informed consent.

Table 2. Part-time workers - as of 31 December 2000

Branch of economic activity	Part-time workers									Total workers	%
	Residents		Stayers		Commuters		Total				
		F	MF	F	MF	F	M	F	MF		
Agriculture	3	1	1				3	1	4	32	12.5
Manufacturing	260	240	11	7	14	10	28	257	285	5 822	4.9
Building, installations	44	29	4	3			16	32	48	1 313	3.7
Trade	316	268	19	15	6	5	53	288	341	2 375	
Transport and communications	22	16	2	2			6	18	24	341	7.0
Credit and insurance	19	17	1	1			2	18	20	563	3.6
Services and social activities	239	211	15	12	62	57	36	280	316	1 464	21.6
Public sector - social security	58	57					1	57	58	3 228	1.8
State companies	11	11						11	11	927	1.2
Total	972	850	53	40	82	72	145	962	1 107	16 065	6.9
Level of qualification	Part-time workers									Total workers	%
	Residents		Stayers		Commuters		Total				
	MF	F	MF	F	MF	F	M	F	MF		
Employees:											
Directors	1						1		1	239	0.4
1st category	44	32	1		1	1	13	33	46	1 868	2.5
2nd category	173	157	6	4	2	2	18	163	181	2 327	7.8
Other categories	236	210	19	14	1	1	31	225	256	2 626	9.7
Intermediate workers:	3						3			420	0.7
skilled	67	55	2	1			13	56	69	3 807	1.8
semi-skilled	200	183	4	2	25	20	24	205	229	2 831	8.1
unskilled	246	211	21	19	53	48	42	278	320	1 926	16.6
Apprentices	2	2						2	2	19	10.5
Shop assistants and other										2	
Total	972	850	53	40	82	72	145	962	1 107	16 065	6.9
Total as of 31 December 1996	527	488					43	526	569	13 347	4.3
Total as of 31 December 1997	562	523	10	5	42	42	44	570	614	13 884	4.4
Total as of 31 December 1998	587	543	18	12	33	33	50	588	638	14 639	4.4
Total as of 31 December 1999	79	78					1	78	79	15 430	0.5

Article 12**Respect for the views of the child**

28. Law No. 59/1974 stipulates that everyone is entitled to express his/her opinions. Article 12 of the Convention is fully implemented, since relevant measures are taken only after the child has been heard by the Minor Service of the Social Security Institute.

V. CIVIL RIGHTS AND FREEDOMS**Article 7****The right to a name and a nationality**

29. Law No. 114 of 30 November 2000 establishes that children born of parents who are both San Marino citizens, as well as children born of a San Marino father and of a foreign

mother, or children born of a foreign father and of a San Marino mother, provided that, within 12 months from the attainment of majority age they declare their intention to maintain the citizenship of the father or that of the mother, respectively, are San Marino citizens by origin. Also, children born of a San Marino parent, the other parent being unknown or stateless, children adopted by a San Marino citizen and children born on the territory of the Republic, both parents being unknown or stateless, are San Marino citizens by origin.

30. The law regulating the San Marino Registry Office (Law of 5 October 1946) provides that all births must be reported to the Registrar within 10 days. The informant may be the father, the mother or a proxy of their choice or, in their absence, the physician or any other attendant at the birth. All birth certificates shall indicate the place, day and time of birth, as well as the child's sex and given name.

31. If the informant does not give any name to the child, this shall be given by the Registrar within 10 days of birth. The Registrar shall also give a name and a surname to children of unknown parents.

Table 3. Population by nationality - as of 31 December 2000

Description	1996	1997	1998	1999	2000		
	Total	Total	Total	Total	Males	Females	Total
Sammarinese by origin	17 422	17 556	17 682	17 870	9 632	8 429	18 061
Naturalized Sammarinese	1 895	1 878	1 829	1 802	1 024	756	1 780
Acquired Sammarinese	3 033	3 136	3 175	3 176		3 155	3 155
Italians	6 332	6 634	7 303	7 927	5 531	2 983	8 514
Italians married to Sammarinese or former Sammarinese	943	1 041	1 114	1 136	1 182		1 182
Other foreigners	365	399	469	535	269	354	623
Other foreigners married to Sammarinese or former Sammarinese	23	22	28	28	28		28
Stateless							
Total	30 013	30 666	31 600	32 474	17 666	15 677	33 343

Table 4. Population by residence - as of 31 December 2000

Description	1996	1997	1998	1999	2000		
	Total	Total	Total	Total	Males	Females	Total
Residents Total	25 515	25 921	26 232	26 628	13 185	13 756	26 941
Non-residents Total	4 498	4 745	5 368	5 846	4 481	1 921	6 402
Overall Total	30 013	30 666	31 600	32 474	17 666	15 677	33 343

Article 8

Respect for the child's identity

32. This general provision covers a variety of cases, including those provided for in articles 229 and 230 of San Marino Penal Code.

33. Article 229, "Suppression of the Civil Status of a Person", punishes anyone failing to report a birth or concealing the status of a person formally recorded in the Official Register.

34. Article 230 "Alteration of the Family Status of a Person", punishes anyone who, by fabricating a birth or substituting a child, or by providing false information at the time of birth reporting, ascribes to someone a status of legitimate filiation which does not exist or is different from that recognized by law.

Legitimate filiation

35. Article 33 of Law No. 49/86 "Reform of Family Law" sets forth that the husband is the father of the child conceived during marriage, to whom he gives his surname. Moreover, article 34 sets forth that conception during marriage is presumed to have taken place in the period from the 180th day following the celebration of marriage to 300 days after the declaration of annulment, dissolution and termination of all civil effects of marriage. Each of the spouses and their heirs may prove that a child born at a date not falling within the terms above was conceived during marriage (arts. 3 and 5). Both husband and wife are entitled, in specific cases fixed by law, to disavow the paternity of a child conceived during marriage (art. 36).

36. Legitimate filiation is proved by the birth certificate filed at the Registry Office. In the absence of a birth certificate, the uninterrupted status of legitimate child is sufficient to prove the child's legitimacy (art. 37). In any disavowal judgement, the presumed father, the mother and the child are necessary parties. If one of the parties is a minor or has been interdicted, the Law Commissioner shall appoint a special curator. If the presumed father, the mother or the child is dead, a legitimacy suit may be brought against the ascendants or the heirs. A suit to contest legitimate filiation may be brought by any person resulting from the birth certificate as the father or the mother, or by any other interested party. Such action is not subject to limitations (art. 42).

Natural filiation

37. Article 12 of the 1974 Declaration on Citizens' Rights stipulates that children born out of wedlock shall enjoy the necessary spiritual, legal and social protection.

38. Under the terms of the 1986 Law "Reform of Family Law", children born out of wedlock may be recognized by the father or the mother, either jointly or separately, even if already married to another person. If one or both parents are minors, the child may be recognized by the person exercising parental authority on the newborn or on the minor parents.

39. The recognition of a child having attained the age of 16 years is ineffective without his/her consent (art. 43). The recognition of a natural child is entered in the birth certificate, or may be recorded in a special declaration, subsequent to the child's birth or conception, before the Registrar, or in a public document or a will before the Law Commissioner (art. 45). A predeceased child may also be recognized in favour of his/her descendants. Upon recognition, the natural child gains, by law, the full status of a legitimate child, including the right to inherit. The recognized natural child shall take the surname of the parent who first recognized him/her. If both parents recognize the child at the same time, the child shall take the surname of the father (art. 49).

Article 13

Freedom of expression

40. Freedom of expression falls within the rights set forth in article 6 of the 1974 Declaration.

Article 17

Access to appropriate information

41. In consideration of the important function performed by the mass media in the education and training of youth, children must have access to any information and material useful to their development. This matter is being elaborated in San Marino legislation.

Article 14

Freedom of thought, conscience and religion

42. These freedoms are sanctioned in articles 6 and 11 of the 1974 Declaration. Section VIII of Law No. 49 "Reform of Family Law" lays down the rights and duties of the parents in providing direction to the child in the exercise of his/her rights.

Article 15

Freedom of association and peaceful assembly

43. Both freedoms are sanctioned in article 6 of the 1974 Declaration.

Article 16

Protection of privacy

44. Article 6 of the 1974 Declaration guarantees personal freedom, freedom of residence and of domicile. The confidentiality of any form of communication is protected by the same article.

45. Article 182 of the Penal Code punishes anyone entering or remaining in someone else's house, private dwelling or workplace and all its appurtenances, clandestinely or against the will of the person entitled to exclude him or her.

46. Anyone attacking the honour of a person during a public meeting or when discussing with others, in his/her presence or absence, shall be punished according to article 184 of the Penal Code.

Article 37

The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

47. Article 15 of the 1974 Declaration sets forth that everyone shall be entitled to jurisdictional protection of personal rights and legitimate interests before ordinary and administrative courts. Moreover, everyone shall be entitled to defend him/herself at any stage of the judicial proceedings. Humane and rehabilitative punishments shall be inflicted only by the competent judge, according to non-retroactive laws, and provided that the defendant is presumed innocent until proven guilty according to law.

48. The Republic of San Marino is a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and received its principles on the promotion of the rule of law, as well as of universal solidarity against practices offending human dignity. In so doing, the Republic has comprehensively covered an important and delicate issue: the general principles of the European Convention on Human Rights, which San Marino also ratified.

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Article 5

Rights and duties of parents

49. Article 28 of the 1986 Law "Reform of Family Law" provides that the husband and the wife shall assume, with marriage, the same rights and duties. Their duties include mutual respect, moral and material assistance, cohabitation, fidelity and cooperation in the interest of the family.

50. Both spouses are entitled to a gainful occupation outside the family and have the duty to contribute to the household work and to the needs of the family according to their resources and capabilities.

Article 18

Parental responsibilities

51. Article 31 of this Law sets forth that both parents have common responsibilities for the maintenance, upbringing and education of their children, in the respect for their personality and aspirations.

Parental authority

52. Section VIII of this Law deals with parental authority and children's duties. Article 81 lays down that a child is subject to parental authority until the attainment of majority or emancipation. Parental authority is jointly exercised by both parents.

53. In case of disagreement on particularly important issues, either spouse may apply for the intervention of the Law Commissioner (for further information on this aspect, see the Introduction to this report).

54. As mentioned above, both parents have parental authority over minor children and exercise it by mutual agreement. Disagreement between parents on the exercise of parental authority is also covered by law (see the Introduction to this report). Under the terms of article 84 of the "Reform of Family Law", the legal representation of minor children is jointly exercised by both parents, who also administer the minors' property.

55. The interests of the child shall be the primary concern of parents. In case of disagreement between parents, the judge shall intervene according to the above-mentioned procedure; for the extraordinary administration of the minor's property (for example in case of alienation of real estate, mortgage, etc.), parents shall be authorized by the Law Commissioner.

56. If one or both parents do not administer the minor's property in his/her interest, the judge may remove the power of property administration and legal representation.

Loss of parental authority

57. In the best interests of the child, a judge may declare the loss of parental authority when the parents violate or seriously neglect their child-rearing duties (art. 86 of Law No. 49/86).

58. With regard to article 18.2 of the Convention, the relevant provisions have already been illustrated in the Introduction to this report: facilities granted to working mothers and their right to change their full-time job into a part-time one until the child attains 3 years of age.

59. Law No. 42 of 6 December 1982 "Establishment of the Family Allowance Fund" and its subsequent amendments fix the amounts of money to be paid to dependant workers living with relatives up to the third degree, whose income does not exceed a certain level. Under article 6, "a dependent person" is anyone who is mainly and adequately maintained by a worker on a regular basis. Further information in this connection can be found in the references to Law No. 21 of 3 May 1977.

Article 9

Separation from parents

60. Law No. 46 of 1989 addresses two cases of separation of children from their parents:

(a) Section VII of the Law deals with the “custody of children”. While recognizing the right of the minor to be brought up within his/her family, the Law also considers situations in which children are deprived of a suitable family environment. In this case, the Law provides for the child’s placement in another family, possibly with minor children, or with a single person, or in a family-like institution able to ensure the care, upbringing and education of the minor (art. 58). Custody is decided by the judge after having received the consent of both parents, or of the parent exercising parental authority, or of the curator, and after having heard the Minor Service. Failing the parents’ consent, the judge shall decide in the best interests of the child. The judge shall be kept informed on the custody by the Minor Service, which has the responsibility for monitoring any case of placement (art. 59). Placement terminates when the conditions which made it necessary no longer exist or when placement proves to be detrimental to the minor;

(b) San Marino law also provides for the separation of a child from one of the parents in case of legal separation of the couple. Article 112 of Law No. 49/86 lays down that in pronouncing or confirming a separation order, the judge shall award the custody of the children to one of the parents, exclusively on the basis of the children’s moral and material interests. The parent who does not have custody has the duty to contribute to the children’s support.

Fulfilment of child-rearing obligations

61. This issue has already been dealt with in the section relative to family allowances (Law No. 42 of 6 December 1968 “Establishment of the Family Allowance Fund”). Article 31 of Law No. 49/86 establishes that both parents have common responsibilities for the support, upbringing and development of their children, according to their respective resources and capabilities.

62. For the purpose of guaranteeing the fulfilment of these duties, article 32 provides that any interested party may ask the judge to quantify such duties in financial terms. After having collected the necessary information, the judge, by means of an immediately enforceable order and irrespective of any pending claims, shall decide the income which the obligor shall pay directly to the complying spouse or to any person bearing the costs of the child’s maintenance, upbringing and education.

63. The law also regulates cases in which parents live separately and the obligor is non-compliant. In particular, the law provides that, in case of legal separation, both parents shall contribute to the child’s support in proportion to their respective income and property, due consideration being given to the working contribution of the custodial parent. Both during the legal proceedings and following the separation order, the judge may impose a suitable personal warranty or real security lest the father or the mother fail to fulfil his or her obligations to support the children.

Table 5. Record of legal separations^a

Characteristics	Year					1996 2000
	1996	1997	1998	1999	2000	
In total	39	55	48	63	45	250
Duration of cohabitation:						
less than 1 year	1	1		2		4
1-3 years	4	6	12	10	8	40
4-6 years	11	7	5	13	15	51
7-9 years	5	4	9	8	2	28
10-19 years	9	23	10	14	12	68
20-29 years	4	12	10	11	6	43
over 30 years	5	2	2	5	2	16
Rite of celebration of marriage:						
religious	27	41	33	45	33	179
civil	12	12	14	18	12	68
other		2	1			3
Place of celebration of marriage:						
San Marino	33	35	34	46	31	179
Italy	6	18	13	15	14	66
other place		2	1	2		5
Age at marriage:						
wife						
less than 20	7	15	7	6	3	38
20-24	17	29	18	32	22	118
25-29	10	8	15	20	14	67
30-39	4	3	5	4	5	21
40-49	1		2	1	1	5
over 50			1			1
husband						
less than 20	1	6		2		9
20-24	12	24	15	18	8	77
25-29	16	20	18	27	21	102
30-39	9	5	12	14	15	55
40-49	1		2		1	4
over 50			1	2		3
Age at separation:						
wife						
less than 20						
20-24	4	4	1	3		12
25-29	8	8	11	9	8	44
30-39	16	28	18	33	26	121
40-49	6	11	13	9	8	47
over 50	5	4	5	9	3	26

Table 5 (continued)

Characteristics	Year					1996 2000
	1996	1997	1998	1999	2000	
In total	39	55	48	63	45	250
husband						
less than 20						
20-24	1	1				2
25-29	6	6	5	7	2	26
30-39	15	28	19	32	26	120
40-49	10	12	14	11	11	58
over 50	7	8	10	13	6	44
Separations with minor children	22	29	22	28	25	126
Total of minor children involved	25	41	28	36	31	161
By age:						
0-2 years	3	2	2	4	3	14
3-4 years	5	4	5	7	7	28
5-9 years	7	13	9	11	11	51
10-14 years	7	17	9	7	6	46
15-17 years	3	5	3	7	4	22
Custody awarded to:						
father	1	3		3		7
mother	24	36	28	31	30	149
both		2		2	1	5
Education level:						
wife						
elementary	7	4	5	4	2	22
junior high-school	18	24	18	22	17	99
high-school	13	24	23	30	20	110
university	1	3	2	7	6	19
husband						
elementary	6	9	5	8	6	34
junior high-school	26	29	24	35	23	137
high-school	5	12	16	18	11	62
university	2	5	3	2	5	17
Occupation:						
wife						
agriculture				1		1
self-employed	2	9	6	5	7	29
employee	25	40	34	44	30	173
housewife	6	4	5	7	6	28
retired	3					3
other or none	3	2	3	6	2	16

Table 5 (continued)

Characteristics	Year					1996 2000
	1996	1997	1998	1999	2000	
In total	39	55	48	63	45	250
husband						
agriculture		2				2
self-employed	11	7	10	10	8	46
employee	25	42	31	35	29	162
retired	2	2		4	1	9
other or none	1	2	7	14	7	31
Nationality:						
wife						
by origin or naturalized	21	29	23	36	20	129
acquired through marriage	16	22	22	19	21	100
Italian	2	2	3	7	3	17
other		2		1	1	4
husband						
by origin or naturalized	33	37	35	43	33	181
Italian	5	17	11	19	12	64
other	1	1	2	1		5

^a At least one of the spouses is a San Marino citizen or resident.

Table 6. Record of divorces^a

Characteristics	Year					1996 2000
	1996	1997	1998	1999	2000	
In total	42	34	36	51	38	201
Duration of cohabitation:						
less than 1 year ^b	1		3		1	5
1-3 years	8	6	3	6	7	30
4-6 years	11	9	2	7	9	38
7-9 years	3	6	5	11	3	28
10-19 years	13	10	13	15	11	62
20-29 years	6	1	7	9	5	28
over 30 years		2	3	3	2	28
Rite of celebration of marriage:						
religious	33	25	28	37	32	155
civil	9	6	7	11	6	39
other		3	1	3		7
Place of celebration of marriage:						
San Marino	27	20	22	33	26	128
Italy	12	11	4	17	12	56
other place	3	3	2	1		9

Table 6 (continued)

Characteristics	Year					1996
	1996	1997	1998	1999	2000	2000
In total	42	34	36	51	38	201
Age at marriage:						
wife						
less than 20	9	8	14	9	9	49
20-24	22	19	17	32	18	108
25-29	9	5	4	7	9	34
30-39	2	2	1	2	1	8
40-49				1	1	2
over 50						
husband						
less than 20	1		4	3	2	10
20-24	14	17	22	24	14	91
25-29	23	11	7	20	17	78
30-39	4	6	3	2	4	19
40-49				2		2
over 50					1	1
Age at separation or divorce abroad:						
wife						
less than 20						
20-24	2	2	3	4	3	14
25-29	14	12	9	9	9	53
30-39	18	16	13	26	18	91
40-49	8	3	7	7	6	31
over 50		1	4	5	2	12
husband						
less than 20						
20-24		1	3	1	2	7
25-29	7	5	4	11	4	31
30-39	26	21	16	22	22	107
40-49	6	4	9	9	3	31
over 50	3	3	4	8	7	25
Divorces with minor children	10	17	14	20	12	73
Total of minor children involved	11	19	14	23	12	79
by age:						
0-2 years						
3-4 years	1			1	1	3
5-9 years	3	6	5	7	4	25
10-14 years	6	8	5	9	5	33
15-17 years	1	5	4	6	2	18

Table 6 (continued)

Characteristics	Year					1996
	1996	1997	1998	1999	2000	2000
In total	42	34	36	51	38	201
Custody awarded to:						
father		2			2	4
mother	11	17	14	23	10	75
both						
Educational level:						
wife						
elementary		3	3	10	8	24
junior high-school	15	14	17	21	17	84
high-school	22	14	15	15	11	77
university	5	3	1	5	2	16
husband						
elementary	3	5	9	8	7	32
junior high-school	19	17	20	26	19	101
high-school	14	11	6	13	11	55
university	4	1	1	4	1	11
Occupation:						
wife						
agriculture						
self-employed	2	4	1	2	5	14
employee	38	22	25	32	27	144
housewife	1	4	4	5	5	19
retired		1	3	3	1	8
other or none	1	3	3	9		16
husband						
agriculture						
self-employed	9	3	4	10	7	33
employee	32	24	24	26	22	128
retired		1	1	3	2	7
other or none	1	6	7	12	7	33
Nationality:						
wife						
by origin or naturalized	21	17	20	39	23	120
acquired through marriage	18	16	14	14	14	76
Italian	3	1	1	7	1	13
other			1	1	1	3
husband						
by origin or naturalized	33	31	32	32	28	156
Italian	8	2	4	18	10	42
other	1	1		1		3

^a At least one of the spouses is a San Marino citizen or resident.

^b From marriage to separation or foreign sentence of divorce.

Article 20

Children deprived of a family environment

64. See comments on article 9 of the Convention on the Rights of the Child concerning the custody of children. Adoption is governed by subsection VII of Law No 49/86 and references can be found below.

65. With regard to minors temporarily or permanently deprived of a suitable family environment, article 6.1.2 of Law No. 21 of 3 May 1977 provides for the establishment of a “family-like institution” for the placement of children whose families cannot ensure their maintenance, upbringing and education, or of children who do not have a family at all.

Article 21

Adoption

66. Subsection VII of Law No. 49/86 “Reform of Family Law” establishes the adopter’s requirements:

- to have attained 25 years of age;
- to have the capacity for the upbringing, maintenance and education of children;
- to be at least 18 years older than the adopted child and not to be over 45.

All applications for adoption must be submitted to the Law Commissioner.

67. Having ascertained that the adopter meets the above-mentioned requirements, the Law Commissioner orders the Minor Service and, if appropriate, other public agencies to investigate the applicant’s ability to educate and the economic conditions, so as to ensure that the minor finds a suitable environment. The Law Commissioner maintains a confidential register of all eligible adopters.

68. When a minor has been declared adoptable, the judge chooses, from among eligible applicants, the spouses or the persons who can best satisfy the needs of the adoptee and pronounces a one-year pre-adoption custody order.

69. The Minor Service supervises all pre-adoption cases and informs the judge of any development. The pre-adoption order may be immediately revoked whenever the judge is informed of serious problems in the custody. If pre-adoption custody turns out to be successful, the judge shall pronounce the adoption order. Following adoption, the adoptee acquires the status of legitimate child of the adopter, including the right to inherit; the adoptee also takes and transmits the adopter’s surname and nationality. All documents issued by the official Registry Office shall not make any reference to natural parents and shall indicate only the new surname.

70. The adoption of foreign children is regulated by Law No. 83 of 20 July 1999. The application for international adoption can only be made through the organizations identified and duly authorized by the Congress of State (Government).

71. For the purposes of legal expatriation, only minors for whom an adoption or pre-adoption custody order has been issued are admitted to the country. The order issued by the foreign authority cannot be declared effective for the purposes of adoption failing a pre-adoption custody period of at least one year. In such case, the one-year pre-adoption custody order is issued by the San Marino judicial authority to supplement the adoption order of the foreign authority, thus complying with the San Marino relevant legislation.

72. Once the pre-adoption custody period has expired successfully, the judicial authority to whom the adoption application was submitted shall make a decision on the adoption.

Article 11

Illicit transfer of children

73. Article 167 of the San Marino Penal Code (Law No. 15 of 25 February 1974) stipulates that anyone reducing to or holding another person in slavery is punishable by terms of 6-14 years' imprisonment and 1-5 years' interdiction.

74. Moreover, article 167 punishes the slave trade or traffic. Such offences are punished by 6-14 years' imprisonment and by 2-5 years' interdiction. (Under the terms of article 82, interdicted people may be disqualified from holding public office, deprived of their civil and political rights, debarred from a profession, divested of parental authority or guardianship, deprived of their capacity to make a will or of any public authorization or licence including the enjoyment of all related rights.) The above-mentioned crimes are punished even if committed outside the territory of San Marino.

Articles 19 and 39

Abuse and neglect, including psychological recovery and social reintegration

75. Some articles of the San Marino Penal Code are relevant to the provisions contained in article 19 of the Convention.

76. Article 234 "Abuse of the Power of Correction and Discipline" punishes anyone who abuses such powers in a way that harms the body or mind of a person under his/her authority or custody, or in such a way as to cause a disease.

77. Article 235 "Maltreatment" punishes any form of violence against a family member by anyone exercising authority and custody.

78. Article 171 “Violation of Sexual Freedom” punishes the inducement or coercion of another person to engage in sexual practices by force, threat, deception or other similar means.

79. Article 173 “Indecent Assaults on a Minor or a Consenting Incapable Person” punishes all acts which would constitute statutory rape if committed to the detriment of a minor of 14 years of age. In such case, the fact of not knowing the victim’s age cannot be invoked as a mitigating circumstance.

80. The appropriate measures to be adopted in the above-mentioned cases are indicated in the provisions on temporary custody and adoption established by Law No. 49 of 26 April 1986 (sect. VII) and already described in our comments to article 20 and article 21 of the Convention.

81. See also Law No. 21 of 3 May 1977 establishing the public Social and Health Service, in particular the rule on the “Casa Famiglia” (public institution for minors with problems and disabilities).

VII. BASIC HEALTH AND WELFARE

Article 6

Survival and development

82. Under Law No. 21 of 3 May 1977, the Minor Service has the responsibility of assisting disabled children and minors needing special care in order to fully develop their abilities.

83. Hereunder are listed the different services offered by this institution and laid down by article 6 of Law No. 21:

(a) Centre for Psychomotor Education. This Centre provides day assistance to minors who, because of severe psycho-physical handicaps, cannot attend school or perform any job and need regular rehabilitation, such as physiotherapy, speech therapy and special tuition. Various degrees of rehabilitation, ranging from simple measures to total assistance, are put in place according to the minor’s special needs. People with severe disabilities may live in the Centre on a regular basis;

(b) Casa Famiglia. This facility hosts minors whose development and education needs cannot be met by their families, as well as children without a family at all. Minors live in this institute and attend ordinary schools until they reach majority;

(c) Assistance at home. Such assistance is provided in all cases where difficult relations exist between children and parents or between them and their social context, with the aim of monitoring how they respond to educational and therapeutic measures;

(d) Counselling in ordinary schools. Counselling is provided by teachers in all schools of all grades, in all cases reported by teachers, the family doctor or the family itself, in order to jointly establish what measure is most suitable to promote the harmonious psycho-social development of the child. Assistance, including to handicapped children, is ensured, moreover, in day-nurseries for children up to the age of 3 and in kindergartens for children aged 3-6.

84. In line with the implementing criteria fixed by article 9 of the above-mentioned Law, every effort shall be made, in all cases and to the extent possible, so that children remain in their family environment and attend ordinary schools. The Law provides for broad-based cooperation among the different sectors involved, as well as the participation of the community, in the most appropriate forms and ways.

VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

85. A debate on the reform of the school system started in the early 1990s eventually led to the adoption of a new law in February 1998.

86. Law No. 22 of 12 February 1998 provided for three "Education Cycles":

(a) "Infancy cycle". It lasts three years and starts at the age of 3. During this period children attend a kindergarten;

(b) "Primary cycle". It lasts five years and starts at the age of 6. Children attend elementary school;

(c) "Secondary cycle". It lasts eight years. Children attend first junior high school (three years) and then high school (five years).

87. Education is compulsory up to the age of 16.

88. Law No. 21 of 12 February 1998 "General Provisions on Education" sets forth the following principles guiding teaching activities in the Republic:

(a) Continuity in education and tuition methods. This principle aims at securing the interrelation between the various cycles and at implementing a common education project for each pupil;

(b) Guidance, understood as developing the children's ability to make choices and decisions with regard to a course of study, university or job;

(c) Teaching autonomy;

(d) Full exploitation of teachers' capabilities;

- (e) Enhancement of compulsory schooling;
- (f) Appraisal of the school system.

89. As regards literacy in San Marino, statistical data as of December 2000 show that the school population amounts to 5,227 of which:

991 children in kindergartens;

1,297 pupils in elementary schools; the average number of pupils per teacher is 5.4. In the Republic there are 14 elementary schools;

729 pupils in junior high schools; there are three junior high schools, having 18 classes each. The average number of pupils per teacher is 5.2.

90. In San Marino there are the following high schools:

- Classical lyceum;
- Modern language lyceum;
- Scientific lyceum;
- Technical school (only the first two years);
- Vocational Training Centre.

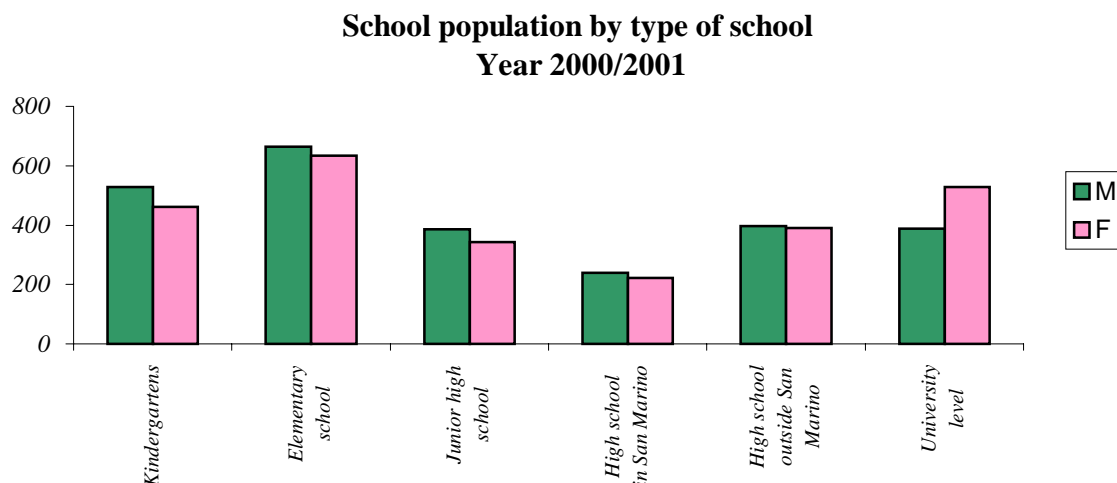
91. The total number of students attending secondary education schools in San Marino is 506 and outside San Marino, 787. In general, pupils studying outside San Marino attend courses which are not available in the Republic such as different vocational training schools, the last three years of the technical school, the artistic lyceum and the communications lyceum which replaced the former Istituto Magistrale.

92. Finally, 917 students attend courses at university level.

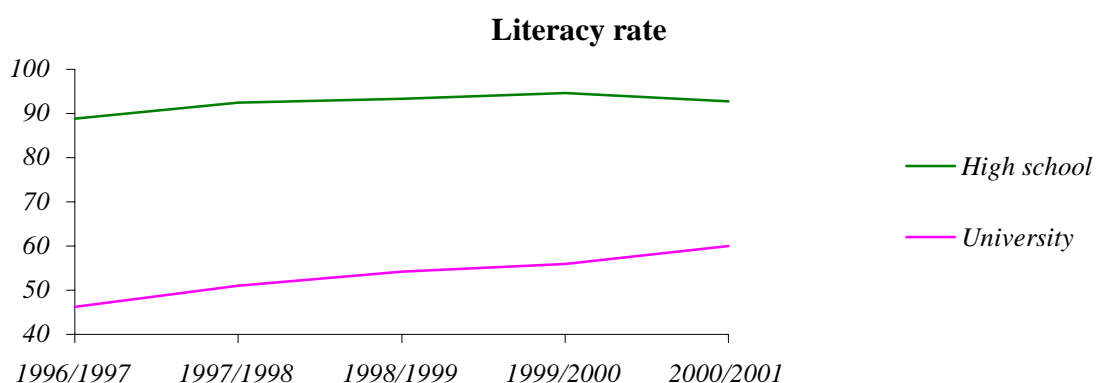
93. In addition, there is a Music School which helps students pass intermediate and final exams in the different instruments for the Italian conservatories. The total number of students enrolled is 192. In general, students follow these courses while attending ordinary school.

94. The graphs below show that the overall school population recorded an increase by 6.1 per cent over the last five years. This increase does not concern all levels of education. Indeed, because of the higher birth rate (1.11 per cent) the number of pupils enrolled in kindergartens and elementary schools increased by 16.0 per cent and 10.8 per cent respectively, while the number of pupils in junior high school fell by 3.3 per cent.

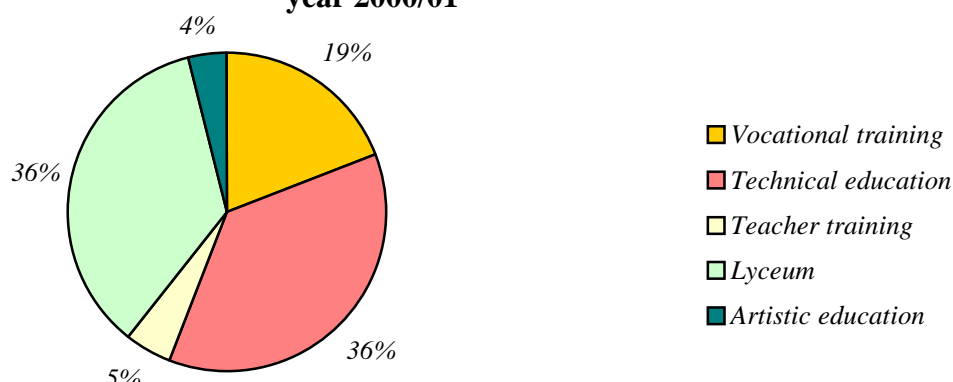
95. Significantly, teenagers tend to continue education at a higher level, also thanks to the favourable social and economic conditions. There has been a steady increase in the number of students in secondary school and vocational training in San Marino (+15.3 per cent), while there has been a fall in schools of the same kind outside San Marino (-14.1 per cent). Universities show the most remarkable increase (+12.8 per cent).



96. Analysing the ratio between the school population in high schools and university and the resident population of the same age, it emerges that literacy levels increased considerably, reaching 92.8 per cent and 60.0 per cent for secondary schools and university, respectively.



**Distribution of total number of students in high schools
year 2000/01**



97. The State does not intervene directly in recreational and leisure activities. However, it pays great attention to the creation and management of green areas; it sponsors several initiatives aimed at promoting sports and sets up numerous sports facilities such as two public swimming pools, one Olympic Stadium, several tennis courts and football fields all over the territory of the Republic.

98. There are three cinemas which are run by the State and show children's films twice a week.

99. Besides the activities specifically promoted or run by the State, there are several associations engaged in leisure activities for the young, like the Scouts associations and others, mostly active in parishes.

IX. SPECIAL MEASURES OF PROTECTION

Articles 22 and 38

Refugee children and children in armed conflict

100. There are no children in San Marino facing such situations.

Article 40

Rights of children accused of having infringed the penal law

101. No juvenile court exists in San Marino because of its limited size. However, the law provides for mitigation of punishment in case of offences committed by minors. It is worth noting that the death penalty and life sentences are no longer provided for by the San Marino Penal Code and the maximum detention sentence is 30 years.

Article 32

Economic exploitation of minors

102. As already mentioned, in San Marino the minimum age for admission to employment is 16 years. Exceptions are envisaged by law in case of summer jobs performed by minors who regularly attend school during winter.

103. No child labour cases have been reported. This practice is strongly prevented by means of strict and frequent inspections. Moreover, there is no need for the young to find a job before the attainment of the required minimum age, because of the prosperous economic conditions of the country.

Article 34

Sexual exploitation and abuse

104. See above.

Other forms of exploitation

105. See above.

Article 35

Abduction of, sale of or traffic in children

106. See above.

Article 33

Drug abuse

107. The law mentioned hereunder applies to people of any age, though some provisions contain specific references to minors.

108. This issue is governed by the Penal Code and by Law No. 139 of 26 November 1997 “Supplements to the Provisions of the Penal Code and of the Code of Penal Procedure on Offences Related to Narcotic Drugs, Alcoholic Drinks, Dangerous or Harmful Substances, Psychotropic Substances”. This Law has introduced more severe punishments for the illicit use of and trafficking in such substances.

109. In order to favour the minor's recovery and reintegration, article 5 of the above-mentioned Law stipulates that, at all stages of the proceedings and after conviction, any person accused or convicted may benefit from probation or parole, under the supervision of trained personnel and social assistants. The judge may also resort to other measures such as admission to hospital or therapeutic institutes, etc.

110. More severe penalties are inflicted on anyone administering or selling narcotic drugs to minors.

111. The Neuropsychiatric Service and the Minor Service of the Social Security Institute are in charge of the treatment and recovery of minors making or having made use of narcotic drugs.
