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I. INTRODUCTION

Following an invitation from the Permanent Mission of the Republic of San Marino to the OSCE to observe the 11 November 2012 early parliamentary elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) from 17 to 19 October. The NAM included Dr. Beata Martin-Rozumilowicz, OSCE/ODIHR Head of Election Department, and Richard Lappin, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions and the election administration, as well as with representatives of political parties, media, and civil society. A list of meetings is annexed to this report.

The OSCE/ODIHR would like to thank the Ministry of Foreign and Political Affairs and the Ministry of Internal Affairs for their assistance and cooperation in organizing the NAM. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

II. EXECUTIVE SUMMARY

On 11 November, Sammarinese voters will elect members to the unicameral parliament, the Great and General Council, for a five-year term. The 60 members are elected under a proportional system in a single nationwide constituency. While the electoral system provides for preferential voting through open candidate lists, voters residing abroad may only vote for a candidate list and are not entitled to vote for their preferred candidates.

Parliamentary elections are regulated primarily by the Declaration on the Citizen’s Rights and Fundamental Principles of San Marino Constitutional Order, and the Electoral Law. In 2007-08, the Electoral Law was amended with a view to promoting government stability, preventing vote buying, ensuring the secrecy of the vote, and enhancing women’s participation. OSCE/ODIHR NAM interlocutors expressed overall satisfaction with the legal framework and considered it an adequate basis for the conduct of democratic elections.

The electoral system provides for a ‘stability reward’, which aims to ensure that the government has at least 35 parliamentary seats. As such, if the winning list does not obtain 35 seats, it is assigned the required number of seats from the lists that obtained the lowest percentage of votes. While such a provision is intended to encourage government stability, it challenges paragraphs 6 and 7.9 of the 1990 OSCE Copenhagen Document.

The three-tiered election administration headed by the State Election Office enjoys a high level of public trust and no particular concerns were raised regarding the technical preparations and conduct
Voter registration is passive and all Sammarinese citizens over the age of 18 are eligible to vote. Approximately one third of the 33,158 registered voters reside permanently outside of San Marino. Voter lists are compiled and made public once a year. While several OSCE/ODIHR NAM interlocutors noted that a review of voter lists could occur closer to election day, all expressed confidence in the overall quality of the voter lists.

A vote can only be cast at a polling station in the district where a voter resides. Voters who permanently reside abroad must travel to San Marino to cast their vote in person. A number of OSCE/ODIHR NAM interlocutors expressed concerns over the current provisions and emphasized that alternative voting methods should be considered to facilitate out-of-country voting.

Candidate registration procedures are clearly defined and generally inclusive. However, contrary to paragraph 7.5 of the 1990 OSCE Copenhagen Document, the law does not permit individuals to independently stand, but only in groups of independent candidates. A number of incompatibilities with candidacy exist and are intended to prevent conflicts of interest. However, such broad restrictions may unreasonably limit candidacy rights.

While women are strongly represented in the election administration, they remain under-represented in elected office. The impact of a gender quota on candidate lists can be limited due to the system of preferential voting.

Campaign finance provisions are less regulated than some OSCE/ODIHR NAM interlocutors would like and several expressed concerns about possible vote buying, especially in relation to incentives allegedly offered by some contestants to out-of-country voters. The current political discourse reflects a widespread view that party and campaign financing should be further addressed.

The Ministry of Internal Affairs is mandated to inform the public of the candidate lists and their platforms and it does so via posters, a dedicated elections website, and dissemination of pamphlets. Candidate debates are additionally organized at state expense, both within San Marino and abroad. Campaign rallies can be organized by contestants separately on a notification basis and no OSCE/ODIHR NAM interlocutor raised concerns about the ability to campaign freely.

The media environment is pluralistic. The public service broadcaster, San Marino RTV, broadcasts the only Sammarinese TV channel and has established a schedule of equal coverage for all candidate lists, including programmes that compare electoral platforms. Concerns were raised by certain OSCE/ODIHR NAM interlocutors regarding defamation, which remains a criminal offence.

Although complaints and appeals are regulated by the Electoral Law, procedures and deadlines are not always clearly defined, which could limit electoral stakeholders rights to effective remedy. Violations of many electoral rights are subject to criminal sanctions.

Legislation does not include specific provisions for international or domestic observers. However, a possible OSCE/ODIHR election observation activity was welcomed by all OSCE/ODIHR NAM interlocutors, recognizing that electoral processes can always be improved and that an independent, external assessment may contribute to this.
The OSCE/ODIHR NAM was the first election-related activity deployed to San Marino. In other circumstances, the OSCE/ODIHR NAM would have recommended the deployment of an Election Assessment Mission. However, taking into consideration the short timeframe before the elections and the human and financial resources already committed this year, the OSCE/ODIHR is not in a position to undertake such a mission for the 2012 early parliamentary elections. The OSCE/ODIHR, however, stands ready to assist San Marino in any future electoral reform, including a review of current electoral legislation.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

San Marino is a parliamentary republic that has longstanding experience with democratic elections. Legislative power is exercised by a unicameral parliament, the Great and General Council, which is composed of 60 members and elected by popular vote for five-year terms. Executive power is vested in the State Congress, a collegial body consisting of ten Ministers and appointed by the parliament from among its members. The Head of State is a jointly held office, with two Captains Regent appointed for six-month terms by the parliament. San Marino is divided into nine administrative districts, Castles, and each one elects a local council and Captain every five years.1

On 6 August 2012, the Captains Regent dissolved the parliament and called for early elections to take place on 11 November. The last parliamentary elections were held on 9 November 2008 and were contested by two coalitions. The outgoing government was formed by the centre-right “Pact for San Marino”, comprising the Sammarinese Christian Democratic Party (PDCS), the Popular Alliance (AP), the Freedom List (LL), and the Sammarinese Union of Moderates (USM). The parliamentary opposition was formed by the centre-left “Reforms and Liberty”, composed of the Party of Socialists and Democrats (PSD), the United Left (SU), and the Centre Democrats (DC).

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The legal framework governing parliamentary elections consists primarily of the 1974 Declaration on the Citizen’s Rights and Fundamental Principles of San Marino Constitutional Order (last amended in 2002) and the 1996 Electoral Law (last amended in 2008), as well as additional governmental decrees and regulations.2 Secondary legislation includes laws and decrees on media and information, on political party funding, and on the judiciary. OSCE/ODIHR NAM interlocutors expressed overall satisfaction with the legal framework and considered it an adequate basis for the conduct of democratic elections.

In 2007-08, several sections of the Electoral Law were significantly amended in a process described by OSCE/ODIHR NAM interlocutors as inclusive and constructive. Amendments were primarily introduced with a view to countering political party fragmentation and promoting government stability, preventing vote buying, ensuring the secrecy of the vote, and enhancing women’s participation. Several political parties indicated that future electoral reform was a possibility, especially in respect of the electoral rights of out-of-country citizens.

1 The districts are: San Marino City, Acquaviva, Borgo Maggiore, Chiesanuova, Domagnano, Faetano, Fiorentino, Montegiardino, and Serravalle and Dogana.

Although the OSCE/ODIHR NAM was informed that access would be granted should an election-related activity be deployed, there are no legal provisions for international or domestic election observation. This is not fully in line with paragraph 8 of the 1990 OSCE Copenhagen Document. All registered candidate lists, however, have the right to appoint representatives to polling stations.

The 60 Members of Parliament (MPs) are elected through a proportional representation system in a single nationwide constituency. The electoral system provides for preferential voting through open candidate lists. Using a single ballot paper, voters mark their choice of candidate list and may additionally write-in the names of up to three preferred candidates from that list. Voters who permanently reside outside of San Marino may only cast a vote for a candidate list and are not entitled to write-in their preferred candidates.

There is a minimum threshold to qualify for seat allocation, which ranges from 0.4 to 3.5 per cent depending on the number of separate parties or movements that form a candidate list. Seats are allocated to candidate lists using the d’Hondt system. Candidates are then awarded seats according to the number of preference votes that they received. In the event of a tie, preference is given to women candidates, followed by length of service as an MP, followed by seniority. Should an MP be appointed to the State Congress, his/her mandate is suspended and they are replaced by the next candidate on the list.

In order for representatives of a list to form a government, the list must obtain the votes of more than one half of the valid votes cast or a minimum of 30 seats. If no candidate list meets this requirement, a second round takes place two weeks later between the two lists that obtained the highest number of votes. The candidate list that obtains the majority of valid votes cast in the second round is given the mandate to form a government. With a view to promoting stability, the government can only be formed by representatives of the candidate list that won the most seats in the election.

The 2007-08 legal amendments introduced a ‘stability reward,’ which aims to ensure that the government has at least 35 parliamentary seats. As such, if the winning list does not obtain at least 35 seats it is assigned the required number of seats from the list or lists that obtained the lowest percentage of votes. While such a provision is intended to encourage government stability, it challenges paragraphs 6 and 7.9 of the 1990 OSCE Copenhagen Document that state that the will of the people should be the basis of government and that candidates who obtain the necessary number of votes required by law are duly installed in office.

Votes can only be cast on election day at a polling station in the district where a voter resides. Voters who permanently reside abroad must travel to San Marino to cast their vote in person at one of nine specially designated polling stations. A number of OSCE/ODIHR NAM interlocutors emphasized that alternative voting methods should be considered to facilitate the participation of the high number of out-of-country voters. In order to vote, a voter must present a voting card and show appropriate identification. Voting cards are mailed at least two weeks before election day, and those who lose their voting card can apply for a replacement. If a voter has no identification they may still be able to vote, provided that one polling station member or two eligible voters registered at that polling station, attest to their identity.

3 See paragraphs 6 and 7.9 of the 1990 OSCE Copenhagen Document, and paragraph 21 of General Comment No. 25 (1996) to Article 25 of the International Covenant on Civil and Political Rights by the UN Human Rights Committee.

4 Several OSCE/ODIHR NAM interlocutors suggested the use of internet or postal voting.
D. ELECTION ADMINISTRATION

Elections are administered by a three-tiered structure headed by a State Election Office (SEO) and including 17 Regional Election Offices (REOs) and 52 Polling Station Offices (PSOs). In total, women compose almost 60 per cent of the election administration.

The SEO is composed of 11 members, including 7 members appointed by the parliament, and one representative each from the Civil Registry, Single Court, Ministry of Foreign Affairs, and Ministry of Internal Affairs. The SEO is chaired by the Minister of Internal Affairs, serves a five-year term, and is formed anew by each incoming parliament. The SEO is required to take decisions by majority vote and its responsibilities include confirmation of voter lists and candidate lists, appointment and training of PSOs, preparation of ballot papers and election materials, and the tabulation and announcement of results.

Primary responsibility for the conduct of election day procedures rests with the PSOs. PSOs are composed of a President and two Scrutineers who are randomly selected from a list of eligible voters who have indicated their willingness to fulfil these roles. All 52 polling stations are established in San Marino, including 9 polling stations that are reserved for voters living abroad. A special polling station is established at the state hospital and mobile voting is permitted for homebound voters upon application to the SEO and presentation of a medical certificate at least 15 days before election day.

REOs are composed of the Presidents of between two and four PSOs and are formed temporarily, and exclusively, for the counting of votes. Initial reconciliation procedures are followed at the PSO and REO. Following this, ballots from each PSO are mixed together and redistributed among each REO member for counting. These measures were introduced in 2007-08 as a means to protect the secrecy of the vote. Although OSCE/ODIHR NAM interlocutors viewed these procedures positively, it may present challenges to the effective remedy of any possible complaints regarding election day procedures and tabulation of results.

All interlocutors met with by the OSCE/ODIHR NAM expressed overall confidence in the electoral administration and no particular concerns were raised regarding the technical preparations and conduct of elections.

E. VOTER REGISTRATION

All Sammarinese citizens who are at least 18 years old on election day, including those residing abroad permanently, are eligible to vote. The only exceptions are those who have been temporarily deprived of their right due to mental incapacity or as part of a judicial sentence. As of 15 October, 33,158 voters were eligible to cast ballots in the upcoming elections, including 11,219 citizens who are resident outside of San Marino. Fifty-six per cent of eligible voters are women.

Voter registration is passive and voter lists are based on information extracted from the permanent electronic population register. Voter lists are compiled and made public once a year, no later than 31 January. The lists are displayed for public scrutiny in polling stations, the SEO building, and in

5 A number of additional requirements apply. All PSO staff should have a high school diploma, while parliamentary candidates, the judiciary, and several elected public positions are prohibited. Presidents are additionally required to have first served as a Scrutineer in a past election.

6 With the exception of one PSO that assumes the responsibilities of an REO for the count.
diplomatic and consular offices abroad until 28 February. During this period, appeals can be lodged with the SEO with regard to undue inclusion or exclusion of eligible voters, erroneous attribution to a polling station, or incorrect civil status. Any complaints are resolved by the Single Court, without possibility of appeal, by 15 March. Prior to elections, the SEO is required to remove from the lists any voters that have since died or been deprived of their voting rights by a court decision. While several OSCE/ODIHR NAM interlocutors noted that a review of voter lists could occur closer to election day, all expressed confidence in the overall quality of the voter lists.

F. CANDIDATE REGISTRATION

Candidate registration procedures are clearly defined and generally inclusive. The right to register a candidate list is granted to any group, provided that their list is supported by 90 eligible voters and submitted 40 days before election day. Voters are only allowed to sign in support of one candidate list. Although a candidate list does not have to be submitted by a political party, in practice lists are usually submitted by political parties or political movements, either separately or as part of a coalition. With a view to supporting stable government, each candidate list is required to publish a unified manifesto in advance. Contrary to paragraph 7.5 of the 1990 OSCE Copenhagen Document, the legislation does not allow for individual independent candidates, but only for groups of independent candidates, as each list is required to include between 12 and 60 candidates. Six candidate lists are registered for the upcoming elections, three of which are coalitions.

As a means of encouraging women’s political representation, the law provides that a minimum of one-third of candidates on a list must be from each gender. As voters may freely choose their preferred candidates from within a list, this does not guarantee women’s elected representation. Several political parties informed the OSCE/ODIHR NAM that the quota had negatively affected the perception of women candidates. Women’s political representation remains low and of the current 60 MPs, 9 are women, while 2 of 10 government ministers are women. For the upcoming elections, 37 per cent of a total of 364 candidates are women.

In addition to the requirements for being a voter, the law requires candidates to be at least 21 years old on election day and a resident of San Marino. The law also identifies a broad range of governmental and non-governmental positions as being incompatible with candidacy. For example, this includes members of the police, diplomatic services, certain judicial positions, as well as elected, legal, or management positions in a number of professional associations, trade unions, federations, and financial institutions. In addition, candidates bound by kinship at first instance or through marriage cannot simultaneously assume a mandate in the parliament. While these incompatibilities are clearly defined and intended to prevent conflicts of interest, such broad restrictions may unreasonably limit candidacy rights.

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7 Paragraph 7.5 provides that participating States “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.”

8 Full candidate lists and their electoral platforms are available at: www.propagandapolitiche2012.sm/on-line/home.html.

9 In this case, the candidate who obtains the highest number of votes is elected. For a full list of incompatibilities, see Articles 18 and 19 of the Electoral Law.

G. CAMPAIGN AND CAMPAIGN FINANCE

The campaign period officially begins 20 days before the election and runs until midnight on the day prior to election day. While direct election campaigning is prohibited before this period, several political parties informed the OSCE/ODIHR NAM that they are already advertising their party and issues that form part of the electoral platforms. The campaign is expected to focus on economic issues including the budget and unemployment, the transparency and efficiency of public institutions, political relations with Italy, and the merits of European Union integration.

During the campaign period, the posting of printed materials is limited to spaces designated by the local administrative districts and private physical advertising is prohibited. Campaign rallies are permitted on the basis of a prior notification to the police. The Ministry of Internal Affairs is mandated to inform the public of the candidate lists and their platforms, which it does via posters, a dedicated elections website, and dissemination of pamphlets. Candidate debates are additionally organized at state expense, both within San Marino and at the main consular offices abroad. No OSCE/ODIHR NAM interlocutor raised concerns about the ability to campaign freely.

Campaign finance provisions are generally limited. The state provides an annual subsidy to political parties, proportional to their parliamentary representation, which is doubled in an election year. Political parties are required to provide an annual financial statement. When candidates register, they must submit a copy of their tax declaration and information of any shareholdings in companies or additional income, which is made public. However, there are no requirements for candidates or representatives of candidate lists to disclose their campaign income and expenditures prior to election day.

Several OSCE/ODIHR NAM interlocutors expressed concerns about possible vote buying, especially in relation to incentives allegedly offered by some contestants to out-of-country voters. A number of criminal sanctions were introduced in 2007-08 to dissuade people from engaging in vote buying, including the prohibition of subsidized travel and accommodation. The law also prohibits voters from taking a mobile phone or a device capable of recording images into polling booths.

A 2011 evaluation by the Council of Europe’s Group of States against Corruption (GRECO) highlighted that San Marino needs to strengthen anti-corruption instruments and pay greater attention to transparency in the public sector. Similar concerns were raised in a recent parliamentary enquiry into corruption. The current political discourse illustrates a widespread view that provisions for campaign finance, as well as broader political financing, should be further addressed.

H. MEDIA

The media landscape in San Marino is limited by the size of its population. The public service broadcaster, San Marino RTV, broadcasts one TV channel and two radio stations, as well as streaming news online via its website. Sammarinese citizens can also receive dozens of additional channels from neighbouring Italy. In addition, three daily newspapers are available.

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published, *La Tribuna Sammarinese*, *L’Informazione di San Marino*, and *Lo Sportivo*, as well as one weekly newspaper, *San Marino Fixing*. A number of internet news media are also active, including *Libertas* and *San Marino Notizie*, while parties and candidates make increasing use of social media. OSCE/ODIHR NAM interlocutors described the media environment as pluralistic and largely free, although some issues were noted with the transparency of media ownership, the professionalism of journalism, and the lack of social media regulation. Concerns were raised by certain OSCE/ODIHR NAM interlocutors regarding defamation, which remains a criminal offence.

According to the law, the Ministry of Internal Affairs and the Ministry of Information are obliged to provide equal access and airtime to all candidate lists. Details of coverage are agreed upon in advance with representatives of all candidate lists and the costs are covered by the state. For the upcoming elections, *San Marino RTV* established a schedule for equal coverage of all six candidate lists, including special programmes that compare electoral platforms. While *San Marino RTV* is subject to parliamentary oversight, private media operate on the basis of self-regulation.

I. COMPLAINTS AND APPEALS

Complaints and appeals are regulated by the Electoral Law, including provisions related to voter registration, candidate registration, campaigning, secrecy of the vote, and the announcement of results. Violations of many electoral rights are subject to criminal sanctions. Procedures and deadlines for complaints and appeals are not always clearly defined, which could limit electoral stakeholders’ rights to effective remedy.

The SEO tabulates and announces the preliminary results. A five-member Permanent Election Board, appointed by the parliament, is then tasked to review the documentation of the SEO, review any complaints filed by voters within five days of the elections, decide upon potential incompatibilities of elected candidates, and, when satisfied, propose to the parliament the validation of the results. Provisions are included in the law for elections to be annulled and repeated in the event of serious irregularities.

IV. CONCLUSIONS AND RECOMMENDATIONS

All OSCE/ODIHR NAM interlocutors expressed high confidence in the integrity of the electoral process and the ability of the election administration to organize elections professionally and transparently. Nevertheless, most interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognizing that further improvements could be made to the electoral process and that an independent, external assessment may contribute to this. In particular, a number of aspects could be brought further in line with OSCE commitments and international standards, including provisions for candidate registration, campaign finance, and election observation. Ongoing discussions regarding out-of-country voting could also benefit from external expertise on good practices in this area.

The OSCE/ODIHR NAM was the first election-related activity deployed to San Marino. In other circumstances, the OSCE/ODIHR NAM would have recommended the deployment of an Election Assessment Mission. However, taking into consideration the short timeframe before the elections and the human and financial resources already committed this year, the OSCE/ODIHR is not in a position to undertake such a mission for the 2012 early parliamentary elections. The OSCE/ODIHR, however, stands ready to assist San Marino in any future electoral reform, including a review of current electoral legislation.
ANNEX: LIST OF MEETINGS

**State Institutions**
Antonella Mularoni, Minister of Foreign and Political Affairs
Valeria Ciavatta, Minister of Internal Affairs
Giovanna Crescentini, Director of the Institutional Secretariat
Silvia Berti, State Protocol Official
Federica Bigi, Director of Political Affair of the Foreign Affairs Department
Maria Alessandra Albertini, Official of the Foreign Affairs Department
Maria Antonella Giardi, Official of the Institutional Secretariat
Lucia Marfori, Official of the Institutional Secretariat
Nazzarena Raschi, Representative of the Office of Communities Abroad, Foreign Affairs Department

**State Election Office**
Sabrina Sarti, Head of Civil Registry
Viviana Merlo, Registrar of the Single Court
Stefano Stolfi, Official of the Foreign Affairs Department
Sestino Spadoni, Member
Santina Salvi, Member
Ennio Vittorio Pellandrea, Member

**Courts**
Valeria Pierfelici, Head Magistrate of the Single Court
Gilberto Felici, Law Commissioner
Alberto Buriani, Law Commissioner
Isabella Pasini, Law Commissioner

**Political Parties and Movements**
Andrea Zafferani and Marco Rossi, Civic Movement 10
Alvaro Selva and Emilio Della Balda, For San Marino
Claudio Felici, Party of Socialists and Democrats
Roberto Giorgetti and Stefano Palmieri, Popular Alliance
Oscar Mina, Sammarinese Christian Democratic Party
Simone Della Valle and Mickael Borkholz, San Marino 3.0
Angela Venturini, San Marino Moderates
Paolo Crescentini, Socialist Party
Nicola Selva and Marco Podeschi, Union for the Republic
Ivan Foschi and Alessandro Rossi, United Left
Gabriele Bucci, We Sammarinese
Gloria Arcangeloni, Marianna Bucci, Adele Toninni, Grazia Zafferani, and Gian Matteo Zeppa, Civic Movement R.E.T.E.

**Media**
Antonio Fabbri, L’Informazione di San Marino
Saverio Mercadante, San Marino Fixing
Enrico Terenzi, San Marino Notizie
Marino Cecchetti, Libertas
Franco Cavalli, San Marino Oggi
Corrado Carattoni, Press Officer, State Congress
Civil Society
Marco Macina, Chamber of Commerce
Giuliano Tamagnini, Secretary General, Confederation of San Marino Workers
Mirko Battazza and Marco Tura, Democratic Confederation of San Marino Workers
Augusto Valentini and Amedeo Grandoni, National Committee for Independent Professions
Pier Paolo Fabbri, Chairman, San Marino Banking Association
Carlo Giorgi, Secretary General, San Marino Industrial Association
Sandro Pavesi, San Marino Organization of the Self-Employed
Emanuele D’Amelio, San Marino Tourism Association
Carlo Emmanuele Lonfermini, President, Union of San Marino Traders
Francesco Biordi, Secretary General, and Giorgia Giacomini, Union of San Marino Workers