

LANZAROTE COMMITTEE

Committee of the Parties to the Council of Europe
Convention on the protection of children against sexual
exploitation and sexual abuse

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Replies to the thematic questionnaire

“Screening of professionals, volunteers and other
persons in contact with children”

SAN MARINO

Replies received by the Secretariat on 16 July 2026

Main relevant provisions of the Lanzarote Convention and previous recommendations

Article 5 paragraph 3 of the Lanzarote Convention requires Parties to take the necessary legislative or other measures, in conformity with their internal law, to ensure that the conditions to accede to those professions whose exercise implies regular contacts with children ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children. The Explanatory Report to the Lanzarote Convention indicates that this obligation can be also applied to voluntary activities (see paragraph 57).

In the 2nd implementation report of the 1st monitoring round (2018), the Lanzarote Committee urged those Parties that limited mandatory screening to certain professionals to extend it to the recruitment of all professionals (public or private) in regular contact with children (R19) and invited Parties to encourage continuous screening of all professionals (R20) and volunteers (R21) in regular contact with children.

Article 27 paragraph 3.b of the Lanzarote Convention requires Parties to take the necessary legislative or other measures to deny the perpetrator, temporarily or permanently, the exercise of professional or voluntary activity involving contact with children in the course of which the offence was committed.

Article 37 paragraph 3 of the Lanzarote Convention requires Parties to take the necessary legislative or other measures to ensure that the information referred to in paragraph 1 (i.e. data related to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with the Convention) can be transmitted to the competent authority of another Party, in conformity with the conditions established in its internal law and the relevant international instruments.

Whenever the term “screening” is used in this questionnaire, this should be understood as “verification of criminal convictions for sexual offences against children”.

In all your answers, please provide details to the extent possible and refer to specific laws, policies, programmes, measures, etc.

Please describe the legislation, policy and practice which are in force on 27 March 2026 or are in the process of adoption (in this case, please specify the planned date of entry into force).

Please indicate:

- a. State Party in respect of which the questionnaire is submitted
SAN MARINO
- b. Entities and bodies which have been involved in responding to this questionnaire
 - Ministry of Health and Social Security, Social Affairs and Equal Opportunities;
 - Ministry of Labour, Economic Planning, Relations with the Autonomous Public Utilities State Corporation, Ecological Transition and Technological Innovation;
 - Ministry of Industry, Handicraft and Trade, Technological Research, Telecommunications and Sport;
 - Ministry of Justice, Welfare and Family;
 - Department of Foreign Affairs;
 - Police Forces;
 - Labour and Active Policies Office;
 - Single Court;
 - Vital Statistics Office.

Persons concerned by screening requirements

1. Is the absence of criminal convictions for sexual offences against children required as a pre-condition in order to accede to professions, employment or volunteer positions whose exercise implies regular contacts with children? Please specify whether such restrictions apply to professions, employment or volunteer positions in the following sectors or areas of activities (additional details to be inserted below the table):

	Criminal conviction check for employment in public sector?	Criminal conviction check for voluntary activity?	Criminal conviction check for employment in private sector?	Criminal conviction check for self-employed professionals?	Please specify the professionals to whom this requirement applies
Education – Pre-school					
Education – Primary	In San Marino, there are only public primary and secondary schools. Therefore, reference should be made to the procedures for recruiting				

Education – Secondary	staff in the Public Administration (this applies to both teaching and non-teaching staff). Please refer to the section below entitled “General requirements governing access to public employment”.				
Education – Tertiary	Academic and administrative staff employed by the public higher education institution -UNIRSM- are subject to the general requirements governing access to public employment.				
Education – Extracurricular (e.g. language schools)	No specific legal provision requiring criminal record screening as a condition of access has been identified for private extracurricular education providers. General labour and child protection legislation applies.				
Childcare (e.g. kindergartens, crèches, childminders)					
Institutional or residential care (e.g. foster homes, orphanages, closed residential facilities)	The facilities present in the territory of the Republic of San Marino form part of the Social Security Institute (SSI) - a public body responsible for managing the State's health, socio-health and welfare services. Staff working in SSI clinics, offices and facilities responsible for providing health and social care services are appointed by the SSI Human Resources and Intramoenia Activity Office in accordance with the following procedures: - Staff residing in the territory of the Republic of San Marino who are appointed directly by the SSI are required to provide a criminal record certificate and a certificate of pending charges at the time of recruitment; non-resident staff are required to provide equivalent official documents issued by the judicial authorities of their country of residence. - With regard to staff recruited from the employment lists maintained by the Labour and Active Policies Office of the Republic of San Marino, the SSI does not require a criminal record certificate or a certificate of pending charges, as the verification of eligibility for inclusion in the employment lists falls within the remit of the Labour Office.				
Detention					
Migration facilities (e.g. reception centres)	There are no facilities for migrants within the territory of the Republic of San Marino.				
Sport	Law no. 115 of 23 September 2025 “Provisions aimed at combating gender-based violence and child abuse in sport” established a system aimed at suspending from sporting activities, in any capacity, members of National Sports Federations, Associated Sports Disciplines, and affiliated Sports Associations who have been convicted at first instance of offences relating to gender-based violence and offences relating to child abuse.				
Culture and leisure activities					
Entertainment sector					
Faith and religion					

Healthcare (including psychological and psychiatric services)	Healthcare and social services for children are provided by the SSI. Staff working in SSI clinics, offices and facilities responsible for providing health and social care services are appointed by the SSI Human Resources and Intramoenia Activity Office in accordance with the following procedures: - Staff residing in the territory of the Republic of San Marino who are appointed directly by the SSI are required to provide a criminal record certificate and a certificate of pending charges at the time of recruitment; non-resident staff are required to provide equivalent official documents issued by the judicial authorities of their country of residence. - With regard to staff recruited from the employment lists maintained by the Labour and Active Policies Office of the Republic of San Marino, the SSI does not require a criminal record certificate or a certificate of pending charges, as the verification of eligibility for inclusion in the employment lists falls within the remit of the Labour Office. By letter Ref. 1048/V/2025 of 13 November 2025, the SSI Human Resources and Intramoenia Activity Office, with a view to carrying out an extraordinary audit to verify that employees of the Social Security Institute continued to meet the integrity requirements, undertook a general review of the criminal record and pending charges of SSI employees, requesting the Court to provide the general criminal record certificate and certificate of pending charges for all employees on duty on that date. The SSI intends to carry out regular checks on the criminal record and pending charges of its employees; the issue that remains to be solved is how frequently these checks should take place. The “San Marino Holiday Home in Pinarella di Cervia” is a facility designed to accommodate children, the elderly, people with disabilities and children with their families, and is managed by the nursing home La Fiorina Srl (mandated by the SSI). Collaborators are employed by the nursing home La Fiorina Srl on a seasonal contract, subject to the provision of the criminal record certificate and the certificate of pending charges or a self-declaration in lieu of such certificates, as well as a medical certificate attesting to good health issued by the Director of Primary Care. The latter, in addition to verifying the absence of physical impediments or illnesses, will verify, as far as possible, the psychosocial profile by analysing the interaction between the person's medical history and socio-environmental context, based on evidence from the medical records. For the sake of completeness, it should be noted that the SSI collaborates with voluntary organisations, which provide services or carry out activities in partnership with the SSI. The latter is currently drawing up a template, which will include a clause requiring the voluntary association or organisation to check for any pending charges involving members or volunteers who collaborate with and provide services for the SSI, in order to fully protect minors and all other service users. It should also be noted that the SSI has concluded agreements with some facilities in neighbouring areas in Italy, such as shelters for victims of violence, care homes for minors, foster homes, or facilities providing
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	services not offered by San Marino healthcare system. Staff recruitment and the verification of requirements in such facilities are governed by Italian legislation and therefore fall within the remit and responsibility of the facility owner. The “Authority for the Authorisation, Accreditation and Quality of Health, Socio-Health and Socio-Educational Services” issues an opinion on the establishment of professionals’ private offices, such as psychologists, educators, physiotherapists, etc., who work, or who may work, with minors. At present, the Authority verifies that applicants hold the appropriate qualifications to practise the profession and does not have the power, or the mandate, to request a criminal record certificate and a certificate of pending charges from the individuals concerned.				
Social protection services	They are provided by the SSI; therefore, please refer to the information given in the “Healthcare” section (including psychological and psychiatric services).				
Law enforcement	Recruitment to the law enforcement agencies of the Republic of San Marino takes place through a public competition. The admission requirements are set out in Delegated Decree no. 59/2015 (Code of Conduct for the Police Corps), which, in Article 3, paragraph 1, stipulates that members of the Police Corps must meet the following requirements regarding civic and moral integrity: a) not having been finally convicted of a criminal offence, for which a punishment entailing restriction of personal liberty or disqualification from public offices of not less than one year has been imposed; b) not having been finally convicted of a criminal offence, for which a punishment entailing restriction of personal liberty or disqualification from public offices of not less than two years has been imposed.				
Judicial					
Civil society organisations					
Victim services (including Barnahus, domestic violence services)	In 2024, the “Emergency Centre” was set up: it is a temporary flat for victims of violence and their children, located in a safe and secure area. The Emergency Centre provides victims with immediate assistance from specially trained social and healthcare professionals, including psychologists, and is open 24 hours a day, seven days a week. It provides short-term accommodation for women who are victims of domestic violence for as long as it takes to initiate social or legal support procedures and/or until a place becomes available in a women’s refuge in Italy, if necessary. Also in this case, the staff working at the Centre are public employees and are recruited in accordance with the procedures set out above in the “Healthcare” section.				
Any other sectors (please specify)					

Here you can insert additional details or specify any exceptions.

General requirements governing access to public employment:

Recruitment in the Public Administration requires candidates to meet the following requirement: “not having been convicted by a criminal judgement having the force of *res judicata* for a crime committed intentionally and not having been punished with more than one year imprisonment or interdiction from public office”.

Article 24 of Law no. 145 of 21 October 2022 provides that “1. A public employee who is formally charged by a Judge’s act, in the Republic of San Marino or abroad, with an offence that may give rise to the application of a precautionary measure, even if only provisionally, shall notify the Director of Human Resources and Organisation thereof within ten days of the notification received, except in proven cases of force majeure. 2. Failure to comply with this obligation shall constitute a conduct contrary to official duties and shall be punishable by suspension from service.”

Furthermore, paragraph 1 of Article 26 of the same Law no. 145/2022 provides that “At every stage and activity of the criminal proceedings, the Judge shall be required to transmit to the Director of Human Resources and Organisation a copy of all measures - adopted by the Judge or by a foreign Judge and acquired following an incoming or outgoing rogatory letter - concerning a public employee subject to criminal investigations in the Republic of San Marino or abroad and containing a formal, albeit provisional, charge against him/her of an offence that may give rise to a precautionary measure”.

Therefore, the legislation in force provides for verification that the individual has no criminal convictions at the time of recruitment and, subsequently, requires public sector employees and the Judge to inform the competent office should they be charged with an offence.

2. In requiring the verification of criminal convictions for sexual offences against children in order to accede to the positions listed in question 1, does your State:
 - a. define the level or threshold of contact with children (one-off, regular, etc.) which necessitates such a verification **No, it does not.**
 - b. distinguish between direct, indirect or online contact with children? **No, it does not.**

If yes, please provide details.

There is no specific check for sexual offences against children, but the check relates to whether the statutory minimum sentence of 1 year has been exceeded (pursuant to Article 12 of Law no. 145/2022). An individual is eligible for registration but not for employment in the Public Administration, in accordance with Decision no. 3 of the Labour Commission dated 5 March 2014. The check is carried out at the time of registration or upon taking up employment in the Public Administration, by means of a request to the Court for a certificate (criminal record certificate and certificate of pending charges).

In the private sector, where the employment concerns residents (i.e. those registered), there is no check carried out by the office; however, a preliminary check is carried out *ex officio*, as the documents are already in the Administration’s possession (Law no. 159/2011). Non-residents, on the other hand, are required to submit several documents (criminal record certificate, etc.) in accordance with Decree no. 130/2021.

3. Is the absence of criminal convictions for sexual offences against children required to become:

a. an adoptive parent:

With regard to adoption, Law no. 49 of 26 April 1986 requires that the adopter or adopters be capable of bringing up, educating and supporting the child, in addition to meeting the other personal requirements set out in Article 62. The adoption application is examined by the First Instance Judge, who verifies that the requirements are met and orders investigations to be carried out by the Minors' Service and, where necessary, by other State bodies, focusing in particular on the applicants' parenting ability, their personal, financial, health and family situation, and their reasons for seeking adoption.

With regard to the adoption of foreign children, Law no. 83 of 20 July 1999 expressly stipulates that the application for a declaration of eligibility must be accompanied, amongst other documents, by the general criminal record certificate and the certificate of pending charges. The declaration of eligibility is issued by the judicial authority following verification of the requirements laid down in Law no. 49/1986 and after receiving a report from the Minors' Service on the prospective adoptive parents' educational eligibility.

Therefore, a conviction for sexual offences against children would be incompatible with a declaration of eligibility for adoption, as it would directly affect the prospective adopter's moral, personal and educational eligibility.

b. a foster parent

With regard to foster care, Law no. 49/1986 provides that a child temporarily deprived of a suitable family environment may be placed in the care of another family, individual or community, by order of the First Instance Judge and following a report from the Minors' Service; such foster care may be terminated if its continuation is detrimental to the child.

With regard to the reception and foster care of unaccompanied foreign minors, Law no. 79 of 30 April 2021 provides for a specific procedure for the declaration of eligibility: prospective foster carers must submit an application to the Minors' Protection Unit attaching the necessary documents to prove that they meet the required criteria; the First Instance Judge issues the eligibility decree following a favourable opinion from the Minors' Service. The decree must take into account the personal, family, health, professional and financial situation of prospective foster carers, as well as their social environment and their motivations. The same law also provides for the revocation of eligibility where circumstances arise that seriously affect a person's eligibility to be a foster carer.

Therefore, also in the case of foster care, a conviction for sexual offences against children would be incompatible with eligibility for foster care and would result in the application being rejected or the person's eligibility being revoked, in the best interests of the child.

c. a child's legal guardian (including for unaccompanied children)?

Please provide details.

4. Is the absence of criminal convictions for sexual offences against children required for the household members of:
- a. persons carrying out professional activity in their home who are in contact with children?

The absence of criminal convictions for sexual offences against children is not required for household members of persons carrying out professional activity in their home who are in contact with children.

- b. persons carrying out volunteering activity in their home who are in contact with children?

Activities carried out by volunteers and associations are governed by Law no. 75/2016 and are a fundamental part of social life in the Republic of San Marino. This sector is characterised by statutory autonomy, non-profit status and freedom of association – principles which define its nature and constitute an essential point of reference for any regulatory assessment.

The current regulatory framework does not contain any specific provisions regarding checks on the eligibility of volunteers to carry out activities involving contact with children, except in the limited areas where such provisions are set out in sector-specific legislation. Indeed, the provisions currently in force focus on formal and administrative checks relating to the establishment and operation of organisations, whilst they do not provide for checks specifically designed to verify the eligibility of individual volunteers.

During its sitting of 18 September 2025, the Great and General Council approved a Decision following a report by the Congress of State (Government) regarding a recent case of child sexual abuse, recognising the need to comprehensively strengthen the system for the prevention and protection of minors. By this Decision, the Great and General Council has committed the Congress of State to set up a technical/administrative commission tasked with carrying out a comprehensive review of the current regulatory and procedural framework, identifying any critical issues and making appropriate proposals to address the shortcomings that have come to light. The technical commission will assess, in accordance with the principles enshrined in Law no. 75/2016 and the freedom of association, the possibility of identifying proportionate and appropriate measures to raise the level of protection for children, including in voluntary activities.

- c. persons wishing to become an adoptive parent, a foster parent, or a child's legal guardian?

No. San Marino legislation does not expressly stipulate, as a general and independent requirement, that family members of persons intending to become adoptive parents, foster parents or legal guardians must also prove that they have no criminal convictions for sexual offences against children.

The verification is primarily intended for and carried out on applicants or candidates for adoption, foster care or guardianship.

In the case of international adoption, for example, the application for a declaration of eligibility must be accompanied by a full criminal record certificate and a certificate of pending charges, as well as a family status certificate and documents relating to the family's financial situation; eligibility is then established following a report from the Minors' Service and "adequate investigations" into the prospective adopters.

However, the child's family situation and living environment are also subject to assessment. Law no. 49/1986 requires adoptive parents to be capable of bringing up, educating and providing for the child, and stipulates that foster care shall be decided

by the First Instance Judge following a report by the Minors' Services, taking into account the best interests of the child.

With regard to the foster care of unaccompanied foreign minors, Law no. 79/2021 requires that the application be submitted by those wishing to become foster carers and that the eligibility decree contain information on the foster carers' personal, family and health situation, their occupation, economic capacity, social environment and motivations. The same law allows for the revocation of eligibility where circumstances arise which indicate that the foster carer is not eligible.

Therefore, there is no explicit legal requirement to obtain the criminal record certificate for all candidates' household members. However, if a household member – in particular a cohabiting member – has a history of sexual offences against children, this circumstance may be considered by the judicial authorities and the competent services as a factor precluding the applicant's eligibility or the continuation of foster care, in accordance with the principle of the best interests of the child and the need to ensure a safe family environment.

5. Does the requirement to verify the absence of criminal convictions for sexual offences against children also apply to:

a. children applying for professional or volunteer positions

Activities carried out by volunteers and associations are governed by Law no. 75/2016 and are a fundamental part of social life in the Republic of San Marino. This sector is characterised by statutory autonomy, non-profit status and freedom of association – principles which define its nature and constitute an essential point of reference for any regulatory assessment.

The current regulatory framework does not contain any specific provisions regarding checks on the eligibility of volunteers to carry out activities involving contact with children, except in the limited areas where such provisions are set out in sector-specific legislation. Indeed, the provisions currently in force focus on formal and administrative checks relating to the establishment and operation of organisations, whilst they do not provide for checks specifically designed to verify the eligibility of individual volunteers.

During its sitting of 18 September 2025, the Great and General Council approved a Decision following a report by the Congress of State (Government) regarding a recent case of child sexual abuse, recognising the need to comprehensively strengthen the system for the prevention and protection of minors. By this Decision, the Great and General Council has committed the Congress of State to set up a technical/administrative commission tasked with carrying out a comprehensive review of the current regulatory and procedural framework, identifying any critical issues and making appropriate proposals to address the shortcomings that have come to light. The technical commission will assess, in accordance with the principles enshrined in Law no. 75/2016 and the freedom of association, the possibility of identifying proportionate and appropriate measures to raise the level of protection for children, including in voluntary activities.

b. adults in respect of criminal convictions received before the age of 18?

Please provide details.

6. If a person legally changes their name, how does your State ensure that their criminal record remains linked to their new name?

Please provide details.

The search for criminal records and pending criminal charges, for the purpose of issuing the relevant certificates, is carried out by entering the individual's ISS code. Therefore, any subsequent change of name does not affect the accuracy of the criminal record.

The ISS code is the personal identification number issued by the Social Security Institute (Istituto per la Sicurezza Sociale – ISS) of the Republic of San Marino. It is indicated on the Health Card (“Carta Azzurra”) and entitles the holder to medical assistance, social and health services, and benefits provided within the territory of the Republic.

7. Is access to public funds for projects implying contact with children conditional on the absence of criminal convictions for sexual offences against children for persons employed in or volunteering for such projects?

Please provide details.

No. At present, access to public funds is not conditional on checking that persons employed in or volunteering for such projects have no criminal convictions for sexual offences against children.

Information included in screening

8. Does the criminal record check include criminal convictions for:
- a. sexual abuse of a child (Article 18 of the Lanzarote Convention)
 - b. sexual exploitation of a child (“child prostitution” Article 19 of the Lanzarote Convention)
 - c. acts involving child sexual abuse material (“child pornography” Article 20 of the Lanzarote Convention)
 - d. offences related to the participation of children in pornographic performances (Article 21 of the Lanzarote Convention)
 - e. corruption of a child (causing a child to witness sexual activities) (Article 22 of the Lanzarote Convention)
 - f. solicitation of a child for sexual purposes (“grooming”), including online (Article 23 of the Lanzarote Convention)
 - g. aiding and abetting or attempting the above offences (Article 24 of the Lanzarote Convention)
 - h. any other convictions (please specify)?

Yes, to all the above.

Please provide details.

A background check carried out by consulting the Criminal Record by the Single Court of the Republic of San Marino makes it possible to verify whether or not there are any final criminal convictions for all the offences listed.

San Marino's Criminal Record system is comprehensive in nature. This means that there is no special register limited solely to offences of child sexual abuse (a possibility ruled out on grounds of privacy protection and compliance with the principles of the Declaration of the Citizens' Rights), but law enforcement agencies, the Judicial Authority and authorised employers have full and rapid access to any final criminal conviction recorded against an individual.

9. Does the screening of persons applying for roles or positions specified in questions 1 and 3 above extend beyond criminal convictions for sexual offences against children to:

- a. relevant administrative or disciplinary sanctions

As regards adoption and foster care, disciplinary or administrative sanctions are not provided for as a separate category for mandatory check. However, such information may be taken into account if it is relevant to an individual's eligibility.

In the case of adoption, the First Instance Judge orders investigations, carried out by the Minors' Service and other State bodies, into the prospective adopters' parenting ability, personal and financial situation, health, family environment and motivations.

In the case of foster care of unaccompanied foreign minors, the First Instance Judge may revoke the foster carer's eligibility "on grounds indicating the foster carer's non eligibility", after having obtained all relevant information.

- b. other information available to the authorities (e.g. judicial decisions in civil proceedings)?

Yes. The check may include information other than just final convictions for sexual offences against children.

Firstly, in various proceedings, a certificate of pending charges is also required; this relates to criminal proceedings that have not yet been concluded. This is the case, for example, with international adoption, where the application for a declaration of eligibility must be accompanied by a general criminal record certificate, a certificate of pending charges and a certificate of legal capacity; eligibility is established following the report from the Minors' Service and the acquisition of any other relevant information.

In the case of the foster care of unaccompanied foreign minors, the assessment is even more detailed: the eligibility decree must contain information on the foster carers' personal, family and health situation, their occupation, economic capacity, social environment, and the reasons and characteristics of the minors they are able to receive.

10. If restrictions on the exercise of the relevant activities apply as a result of a criminal conviction for sexual offences against children, in line with Article 27 paragraph 3.b:

- a. are they life-long?
- b. if they are not life-long, please specify the time-limits applicable
- c. are they applied only to activities in the public sector?

Please provide details.

If a person has been convicted of sexual offences against children (punishable by fourth-degree imprisonment, i.e. between 4 and 10 years pursuant to Articles 171 et seq. of the Criminal Code), he/she will be subject to the following restrictions:

(a) PUBLIC SECTOR:

EMPLOYMENT: anyone who has been convicted of an intentional offence carrying a sentence of one year or more and/or a disqualification from public office lasting one year or more shall be barred for life from employment within San Marino Public Administration (see Article 2 of Law no. 107/2009 and subsequent amendments).

DISMISSAL: if the person concerned is already employed in the public sector, a conviction for sexual offences against children constitutes grounds for mandatory dismissal (see Article 12 of Law no. 145 of 21 October 2022: "[...] 2. Furthermore, an employee shall be dismissed if he/she: a) is subject to disqualification from public offices of not less than third degree as a result of a final conviction; b) is subject to a final sentence, for the commission of a criminal offence, of not less than one year imprisonment; c) is finally acquitted following extinction of the offence, when it is nevertheless established in the judgement that he/she committed a criminal offence punishable by imprisonment of not less than third degree. 3. If the punishments provided for in paragraph 2, letters a) and b) have been imposed by a foreign Judge, the employee shall be dismissed only if the offence giving rise to the conviction is provided for by San Marino law respectively: a) as a criminal offence punishable by disqualification from public offices of not less than third degree, alone or jointly, or, alternatively, by another kind of punishment; b) as a criminal offence punishable by a sentence that entails restriction of personal liberty or disqualification from public offices of not less than a maximum of one year, either alone or jointly, or, alternatively, by another kind of punishment. 4. If the judgement referred to in paragraph 2, letter c) has been passed by a foreign Judge, the employee shall be dismissed only if the offence giving rise to the liability of the employee, not punishable under criminal law due to the extinction of the offence, is provided for by San Marino law as a criminal offence punishable by imprisonment of not less than third degree).

PRIVATE SECTOR:

EMPLOYMENT: pursuant to Article 4 of Law no. 137 of 5 December 2017: "[...] 4. If the certificate referred to in Article 3, paragraph 1, letter d) [criminal record certificate and certificate of pending charges – ed.] reveals convictions for offences committed within the last ten years for which a final criminal conviction has been rendered involving a prison sentence of more than two years, the Director of the Labour Office shall issue a decree refusing to grant a work permit or authorisation. Where the certificate referred to in Article 3, paragraph 1, letter e) reveals convictions – including those that are not yet final – or an indictment in the context of ongoing criminal proceedings, the Labour Office shall transmit the application for a work permit or authorisation to the Labour Commission, which shall act in accordance with paragraphs 1, 2 and 3".

In the latter case, the Labour Commission of the Republic of San Marino assesses the application on a case-by-case basis, striking a balance between public order and the right to work. More specifically, it analyses the nature of the offence, the degree of kinship between the offender and the victim, or whether they lived together in the territory of San Marino, and the type of employment, to ensure that public safety is not at risk.

DISMISSAL: under Article 6 of Law no. 23/1977, dismissal for misconduct is provided for; such dismissal is determined by “an event that does not permit the continuation, even on a temporary basis, of the employment relationship”. A criminal conviction falls within this category when the offence is incompatible with the employee’s duties or damages the company’s reputation and interests.

Dismissal does not automatically follow simply because of a conviction. The employer must assess the seriousness of the offence committed, the extent of the employee’s involvement, the nature of the work carried out and any adverse impact on the company’s activity or on the relationship of trust with colleagues and the employer.

(b) In any event, in the case of a conviction for sexual offences against children, Article 171 of the Criminal Code provides for fourth-degree disqualification (from 2 to 5 years) as an additional punishment to imprisonment “if the offence is committed by the ascendant, adopter, guardian, educator, teacher, health professional or the person having custody of a child for reasons of supervision, education or care, fourth degree disqualification from parental authority, guardianship, profession or art shall be jointly applied”.

(c) They are not limited to activities carried out in the public sector, as is evident from the answers provided in letters (a) and (b) above

11. Does the criminal record check verify the existence of an expunged or spent criminal conviction for sexual offences against children for persons applying for roles or positions specified in questions 1 and 3?

Please provide details.

By checking pending charges, it is possible to verify which proceedings are currently underway, and not which convictions have been imposed.

Convictions can be verified by means of a criminal record certificate.

Criminal offences that have lapsed do not appear on criminal record certificates issued for administrative purposes, whereas they do appear if the certificate is requested for judicial purposes (by the Judicial Authority).

Law enforcement agencies always have the option of carrying out checks – by obtaining a criminal record certificate for judicial purposes – on any criminal convictions of a person. The criminal consequences of a conviction lapse, for example, through rehabilitation; however, this can never apply to sexual offences against children. The conviction itself, as a judicial order, does not lapse.

Screening procedure

12. How is the screening procedure set out in your legal framework (in a single piece of legislation, sector-specific legislation, or other)?

- Under the legal system of the Republic of San Marino, the procedure for checking criminal record is not governed by a single, comprehensive piece of legislation, but is based on a combined system. From the perspective of data retention, the procedure is based on the Criminal Record Law no. 16/1974 – see also the relevant consolidated text – but is implemented and regulated across the board by sector-specific legislation governing the Public Administration, the Third Sector

and Education, as well as by procedural rules on digitisation and administrative simplification (Law no. 159/2011).

- There is no specific check for sexual offences against children, but the check relates to whether the statutory minimum sentence of 1 year has been exceeded (pursuant to Article 12 of Law no. 145/2022). An individual is eligible for registration but not for employment in the Public Administration, in accordance with Decision no. 3 of the Labour Commission dated 5 March 2014. The check is carried out at the time of registration or upon taking up employment in the Public Administration, by means of a request to the Court for a certificate (criminal record certificate and certificate of pending charges).
- In the private sector, if the employment concerns residents, it is not subject to any check by the office.
- The respective Commands of the Police Corps grant individual operators prior authorisation to access databases for the purpose of checking criminal record certificates.
- Article 12 of Law no. 159/2011 provides that certificates relating to criminal convictions and pending charges may be replaced by specific declarations signed by the person concerned. Article 4 also stipulates that the Public Administration is required to obtain ex officio any certificates or documents already in its possession.

Please provide details.

13. If screening is required, who is required to act?

- a. the employer, volunteer recruiter or child protection authority is expected to obtain the necessary information directly from the authorities
- b. the candidate must provide proof of absence of convictions

Once a suitable candidate has been identified to be employed in the Public Administration, checks are carried out at the start of employment through the signing of a self-declaration in which the new recruit declares – under penalty of making false statements to a public official – that he/she has no pending charges or criminal record certificates showing the aforementioned convictions.

- c. another scenario. Please specify

Please provide details.

14. If screening is required, who bears the costs of screening procedures?

Please provide details.

Generally, the Public Administration. Sometimes, the direct person involved (for producing certificates...)

15. How does your State monitor that employers, volunteer recruiters or child protection authorities comply with the relevant regulations on screening?

Please provide details.

16. If screening is required, are there sanctions foreseen for failure to comply with it? If yes, what type of sanctions?

Please provide details.

If a public employee responsible for verifying the eligibility criteria for the recruitment of an individual in the Public Administration (including the absence of criminal convictions, as described in the answer to question no. 10 above) fails to do so without justifiable reason, he/she may be liable to criminal sanctions for the offence referred to in Article 378 of the Criminal Code (Failure to accomplish official duties) or for the offence referred to in Article 380 of the Criminal Code (Refusal to accomplish official duties).

The same applies to public officials responsible for initiating dismissal proceedings against a public employee already on duty who, although formally notified of the criminal conviction of the employee for the offences described in more detail in the answer to question 10 above, fails, without justifiable reason, to perform the duties falling within his/her competence.

In any case, such omissions, even if they do not amount to criminal offences, may result in the employer imposing disciplinary sanctions.

17. Is regular screening, beyond the initial recruitment process, required, for:

- a. professionals in contact with children
- b. volunteers in contact with children
- c. foster parents and legal guardians?

San Marino legal system does not provide for a general obligation for foster parents to undergo regular screening of criminal record following the initial assessment or after they have been declared eligible.

With regard to the foster care of unaccompanied foreign minors, Law no. 79 of 30 April 2021 provides for a specific declaration of eligibility for foster care. The eligibility decree contains information on the foster carers' personal, family and health situation, their occupation, economic capacity, social environment, motivations and the characteristics of the children they are able to receive. The same law stipulates that foster carers also assume the role of guardians and act as legal representatives for the children in their care.

The declaration of eligibility for foster care lapses after three years if, by that time, the foster care procedure has not been finalised; in that case, it may be reapplied for. However, this does not involve a regular screening of criminal record during the foster care, but rather a new assessment in the event that the eligibility has not been used within the specified time-frame.

Furthermore, the First Instance Judge, following a report by the Minors' Service - Minors' Protection Unit or even *ex officio*, may revoke the declaration of eligibility at any time should circumstances arise that indicate the foster carer's non eligibility. Such revocation prevents the foster care procedure from continuing or a new procedure from being initiated.

Once the foster care of an unaccompanied foreign minor has been finalised, the foster carer is obliged to remain under the supervision of the Minors' Service - Minors' Protection Unit until the child becomes of age or until the foster care procedure is terminated early. Revocation of foster care shall take place if there is a serious cause preventing its continuation, taking into account the minor's best interests.

Therefore, the answer is that there is no obligation to carry out a regular screening of criminal record at fixed intervals: San Marino system is instead based on an initial assessment of eligibility, on ongoing supervision by the relevant services and the Judicial Authority, and on the possibility of revoking eligibility or the foster care when circumstances arise that are incompatible with the best interests of the child.

18. Where a person working or volunteering in contact with children is under investigation for a sexual offence against a child, are law enforcement or other authorities allowed to inform the employer or volunteer organisation about the ongoing investigation? If yes, what is the consequence?

Please provide details.

Pursuant to Article 26 of Law no. 145/2022, "at every stage and activity of the criminal proceedings, the Judge shall be required to transmit to the Director of Human Resources and Organisation of the Public Sector a copy of all measures - adopted by the Judge or by a foreign Judge and acquired following an incoming or outgoing rogatory letter - concerning a public employee subject to criminal investigations in the Republic of San Marino or abroad and containing a formal, albeit provisional, charge against him/her of an offence that may give rise to a precautionary measure. The Judge shall also transmit to the Director of Human Resources and Organisation all measures modifying or defining the charge, ordering the termination of the proceedings or the acquittal of the defendant during the investigation stage, containing a judgement of acquittal or conviction, even if not final, or a declaration of conclusion of the proceedings on the merits".

This general obligation does not apply to private employers or to the volunteer organisation where the suspect carries out his/her work.

In any case, whilst the investigation is ongoing, if the Judge considers that there is a danger to the child's safety and security, he/she may adopt precautionary measures designed to protect the child from contact with the suspect (including suspension from the office of guardian, suspension from the exercise of a public office or service, a temporary ban on carrying out certain professional or business activities or on performing administrative and representative functions on behalf of others), as well as the mandatory precautionary measure of a restraining order prohibiting the suspect from approaching the child (see, respectively, Article 53 of the Code of Criminal Procedure and Article 22 of Law no. 97/2008 and subsequent amendments). The adoption of such measures entails notifying the employer of the decision; the employer may then, in the light of the information received, initiate disciplinary proceedings against the employee, should it emerge that the unlawful acts were committed in the course of his/her duties.

Cross-border screening

19. If the candidate for roles or positions specified in questions 1 and 3 has previously resided or worked in different countries, is it required to verify the absence of criminal convictions for sexual offences against children in each of those countries in respect of:
- a. professionals
 - b. volunteers
 - c. persons wishing to become an adoptive parent, a foster parent or a child's legal guardian?

No, there is no express, general obligation to check for criminal convictions for sexual offences against children in every country where a person has previously lived or worked, should that person apply to become an adoptive parent or a foster parent of a child.

However, the competent authority may acquire and assess further information where this is necessary for the purposes of establishing eligibility and of safeguarding the best interests of the child.

For international adoption, Law no. 83 of 20 July 1999 requires that the application for eligibility be accompanied, amongst other things, by a general criminal record certificate, a certificate of pending charges and a certificate of legal capacity; the documents must be up to date, and the eligibility decree is issued by the Judicial Authority following a report by the Minors' Service, containing an assessment of the educational eligibility and "any other relevant information" obtained. However, the legislation does not expressly stipulate an obligation to provide criminal record certificates from each country where the applicant has previously resided or worked.

San Marino's legislation on international adoption also provides for cooperation with foreign authorities, particularly in proceedings governed by the Hague Convention or bilateral agreements. The Central Authority of San Marino may transmit the application and its annexes to the Central Authority of the State indicated by the applicants and declare its willingness to receive and transmit any necessary documents and information. This allows for the exchange of information with foreign authorities where necessary, but does not amount to an automatic obligation to carry out checks in all countries where the applicant has previously resided or worked.

With regard to the foster care of unaccompanied foreign minors, Law no. 79 of 30 April 2021 stipulates that foster carers must be San Marino citizens or residents and must submit an application to the Minors' Service - Minors' Protection Unit, together with the necessary documents to prove that they meet the required criteria. The eligibility decree must contain information on the foster carers' personal, family and health situation, their occupation, economic capacity, social environment and their motivations for becoming a foster carer. Also in this case, the legislation does not explicitly provide for a mandatory check in every country where the applicant has previously resided or worked.

However, Law no. 79/2021 provides that eligibility may be revoked at any time should circumstances arise which indicate that the foster carer is not eligible, subject to the acquisition of all relevant information. Furthermore, foster carers of unaccompanied foreign minors also assume the role of guardians and act as legal representatives for the children in their care. Therefore, any information received from foreign authorities or relating to criminal convictions abroad may be taken into account when assessing eligibility or revocation.

20. Is there a mechanism to:

- a. request data about a person's criminal convictions for sexual offences against children from the competent authority of another State outside the context of criminal proceedings¹ (please specify)

Yes, there is a mechanism. San Marino's law enforcement agencies may request this information directly from their foreign counterparts via Interpol. Furthermore, in its relations with Italy, pursuant to Article 34 of the 1939 Bilateral Convention on Friendship and Good Neighbourhood, San Marino systematically receives *ex officio* extracts of criminal measures concerning its own citizens, regardless of whether a specific request relating to a particular case has been made.

- b. provide data about a person's criminal convictions for sexual offences against children to the competent authority of another State outside the context of criminal proceedings (please specify)?

Yes, there is a similar and mirror-image mechanism. San Marino's law enforcement agencies, if requested, may transmit this information directly to their foreign counterparts via Interpol. In its relations with Italy, pursuant to the same Article 34 of the 1939 Convention, San Marino systematically transmits *ex officio* to Italy extracts of criminal measures concerning Italian citizens, regardless of whether a letter rogatory has been issued or whether specific criminal proceedings are pending.

21. Is there an obligation to provide data about a person's criminal convictions for sexual offences against children at the request of the competent authority of another State outside the context of criminal proceedings?

Please provide details.

In the context of letters rogatory issued in connection with foreign criminal proceedings, San Marino Judge always notifies the findings of San Marino Criminal Record to the requesting country.

San Marino's law enforcement agencies, if requested, may transmit this information directly to their foreign counterparts via Interpol.

Outside the context of criminal proceedings, Article 34 of the 1939 Bilateral Convention on Friendship and Good Neighbourhood, concluded between San Marino and Italy, provides for the obligation of the two States to exchange extracts of all criminal measures concerning their respective citizens. This exchange of information takes place automatically and *ex officio*, outside the context of and independently of any letters rogatory or specific criminal proceedings.

¹ For purposes of recruitment, volunteering, adoption, foster care or guardianship.

Additional details and reflections

22. Please add any further details regarding the modalities of the screening procedures applicable in your State, if relevant.

Please provide details.

23. What challenges related to the screening for criminal convictions for sexual offences against children of professionals, volunteers and persons wishing to become adoptive parents, foster parents or a child's legal guardian exist in your State in practice (e.g. administrative costs, delays, cross-border co-operation)?

The main practical difficulties do not concern the internal checks carried out by San Marino authorities, which are facilitated by the small size of the State and the existence of offices responsible for issuing judicial certificates; they concern in particular the uniformity of the system and cross-border cooperation.

In proceedings relating to adoption, foster care and guardianship, the screening process is not limited to criminal record certificates, but requires a comprehensive assessment of the applicant's personal, family, social and educational eligibility. For international adoption, San Marino's legislation requires the submission of a general criminal record certificate, a certificate of pending charges and a certificate of legal capacity, as well as a report by the Minors' Service on the prospective adopters' educational eligibility. This entails a more extensive preliminary investigation, which is useful for the protection of the child, but which is potentially more time-consuming in administrative terms.

A further difficulty arises in cases where the candidate has lived, worked or carried out activities in other countries. San Marino's legislation does not, as a general and automatic rule, require individuals to obtain criminal record certificates from every country where they have previously resided or worked. Therefore, information from abroad is generally obtained – where deemed necessary in the specific case – by requesting documents from the applicant or through cooperation with the competent foreign authorities.

In proceedings concerning the foster care of unaccompanied foreign minors, the law provides for an assessment of the foster carers' eligibility and the possibility of revoking the foster care should circumstances arise that indicate that foster carers are not eligible. This makes it possible to take measures when new information is received, but it can still present difficulties when such information comes from abroad, is not immediately available or requires further verification.

24. What promising practices, if any, would your State like to highlight in the screening of professionals, volunteers and other persons in contact with children?

Please provide details.