

**Group of Experts on Action against Violence
against Women and Domestic Violence
(GREVIO)**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**Report submitted by San Marino
pursuant to Article 68, paragraph 1
of the Council of Europe Convention
on preventing and combating violence
against women and domestic violence
(Baseline Report)**

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Report on legislative and other
measures giving effect to the
provisions of the Council of
Europe Convention on Prevent-
ing and Combating Violence
against Women and Domestic
Violence

Istanbul Convention

San Marino, 6 February 2020

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REPUBLIC OF SAN MARINO

Palazzo Begni – Contrada Omerelli, 31 – 47890 San Marino
T +378 (0549) 882 144 - F +378 (0549) 882 422 – dipartimentoaffariesteri@pa.sm
www.esteri.sm

I. INTRODUCTION

A. The Congress of State (Government) of the Republic of San Marino adopted decision no. 10 of 11 March 2014 authorising the signing of the Council of Europe Convention on preventing and combating violence against women and domestic violence, done at Istanbul on 11 May 2011 (hereinafter referred to as “Convention”).

The subject-matter of the Convention had already found broad consensus in San Marino in the previous years, thanks to various initiatives: the ratification, in 2013, of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted in 1979 by the United Nations General Assembly, and of its Optional Protocol in 2005; support and participation in the pan-European campaign on violence against women during the San Marino six-month Chairmanship of the Committee of Ministers of the Council of Europe in 2006; the approval by acclamation of the agenda of the Great and General Council (Parliament) of 24 November 2006 as well as thanks to the initiatives organized by the private sector or by non-governmental organisations active in the field, in particular on the occasion of the International Women's Day - which culminated in the adoption of Law n. 97 of 20 June 2008 "Prevention and elimination of violence against women and gender violence".

This was a quantum rule for the Republic of San Marino, which had an impact both on cultural aspects - i.e. awareness raising, education and training - and on the evolution of San Marino Criminal Code (CC), in order to amend it with new and specific offences concerning gender-based, domestic violence and violence against women.

With a view to signing the Convention, the Congress of State decided to carry out an accurate and in-depth analysis of those aspects of the San Marino legal system as well as administrative and socio-health structure that were not yet fully compliant with the requirements of the Convention, in order to prepare the appropriate updates, amendments and integrations.

Such analysis resulted in a well-structured draft law that culminated with the approval of Law no. 57 of 6 May 2016, which issued rules adjusting San Marino legal system to the provisions of the Convention.

At the same time, by Parliamentary Decree no. 6 of 22 January 2016, the Great and General Council of the Republic of San Marino ordered the ratification of the Convention, which entered into force on 1 May 2016, in accordance with Article 75, paragraph 4, of the Convention.

The Republic of San Marino is therefore subject to the monitoring mechanism provided for in the Convention by the GREVIO and will submit this Report, as indicated by the Group, by 6 February 2020.

The Report has been drawn up by the Directorate of Legal Affairs of the Foreign Affairs Department of the Republic of San Marino, in collaboration with the Authority for Equal Opportunities (as per Art. 34 of Law no. 97 of 20 June 2008), the Commission for Equal Opportunities (Art. 3, Law no. 26 of 25 February 2004), the Court of the Republic of San Marino, the Gendarmerie, the Social Security Institute and the University of the Republic of San Marino.

B. It is worth noting that the Republic of San Marino, compared to many other European countries, can be considered as a small State, both in terms of territorial size (61 sq. km) and of population (33,534 as of September 2019)¹. With a GDP of EUR 1,353,100,000.00² (2017 figures) and an unemployment rate of around 8%, San Marino, despite the recent international economic crisis, continues to enjoy a decent economic situation that allows it to maintain a good level of welfare.

These factors and figures have built on a strong local sense of community, which still endures even if to a lesser extent than a few decades ago. The territory of San Marino is then divided into 9 districts (Townships), headed by a sort of mayor (Head of the Township Council) and a city council (Township Council). Institutions are therefore very close to citizens and easily accessible. The Captains Regent (Heads of State) themselves receive citizens once a week; any citizen can ask to talk with the highest authority of the State and this generally happens weekly without delay.

Since 1955 health care has been free for all San Marino citizens or residents. The Social Security Institute³ (SSI) is responsible for health and social welfare and provides a wide range of both health services and economic benefits such as sick pay, family allowances, pharmaceutical assistance, social and health care, pensions. SSI not only manages the State Hospital, located in a central position, but it also provides public health territorial services, located in several areas of the Republic (3 Health Centres, a Centre for women's health, 7 pharmacies spread over the territory, a Mental Health Centre, a Minors' Service, a Service for people with disabilities and residential care, a Residential Elderly Care Centre, a Home Care Service with two Centres).

In San Marino there are three major trade unions (the Democratic Confederation of San Marino Workers, the San Marino Labour Confederation, the San Marino Union of Workers), which, in addition to their institutional role of defending worker's rights, provide citizens with various support services and point of contact dedicated to specific issues.

A very lively and dynamic sector in San Marino is that of associations in all fields of civil activity, which gathers at least 183 associations (this is the number of associations recorded in 2018 which benefited from the voluntary contribution deriving from general income tax; such figure, however, does not include the associations which have not benefited from it and de facto associations).

This long premise is essential to better understand the data and information provided below, in accordance with the requests of the questionnaire.

¹ Statistical Bulletin - <http://www.statistica.sm/on-line/home.html>

² <http://www.statistica.sm/on-line/home/dati-statistici/economia.html#>

³ <http://www.iss.sm/on-line/home/chi-siamo.html>

II. INTEGRATED POLICIES AND DATA COLLECTION

(Chapter II of the Convention, Articles 7 to 11)

Art. 1 of Law no. 57 of 6 May 2016 - Rules adjusting San Marino legal system to the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), commits the Republic of San Marino to: 1) conforming the activities of its social and health care, support, protection and prevention services to the general principles established by the Convention; 2) effectively implementing policies of equality between women and men and the empowerment of women; 3) adopting a gender perspective in the design of the measures implementing the Convention and in the evaluation of their impact.

Article 2, which supplements and replaces Article 2 of Law no. 97 of 20 June 2008 - Prevention and elimination of violence against women and gender violence - defines in a more modern way the notion of violence against women, gender and domestic violence, in light of the provisions of the Convention.

Violence against women is defined as *“any act of sex or gender-based violence that results, or is likely to result in, physical, sexual, psychological or economic harm or suffering to the victim, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”*.

Paragraph 2 of said Article specifies that: *“The term “gender” shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men”*.

Paragraph 3 then defines domestic violence as: *“all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners considered equivalent to spouses, whether or not the perpetrator shares or has shared the same residence with the victim”*.

Paragraph 4 further specifies that: *“The term woman shall also include girls under the age of 18”*.

Two bodies are in charge of coordinating and supervising services, actions and initiatives in the field of prevention and combating violence against women and gender violence. Each body has specific functions but they cooperate and work in synergy on some issues: the Commission for Equal Opportunities and the Authority for Equal Opportunities.

The Commission for Equal Opportunities is provided for by Article 3 of Law no. 26 of 25 February 2004, as amended by Article 4 of Qualified Law no. 2 of 12 September 2006 and Article 33 of Law no. 97 of 20 June 2008. The Great and General Council appoint it at the beginning of the legislature and for its entire duration.

The Commission for Equal Opportunities: submits to the competent bodies the initiatives necessary to guarantee legal equality and equal opportunities; defines proposals and promote initiatives to bring the legal system in line with the principles of legal equality and equal opportunities; delivers advisory opinions on draft laws already examined at first reading and before

their discussion in second reading with regard to compliance with the principle of legal equality and equal opportunities; participates with one of its representatives, in an advisory capacity, in the meetings of the Permanent Parliamentary Committees when reporting on the draft laws that the Presidents of these Committees consider relevant to the issues of legal equality and equal opportunities; promotes controls on the correct application of the relevant regulations and guidelines decided by the Great and General Council on legal equality and equal opportunities; collects and verifies the complaints filed by citizens and associations concerning legal equality and equal opportunities; has the right to submit complaints to the competent bodies; can initiate civil, criminal and administrative action proceedings for the defence of collective interests relating to equal opportunities; promotes surveys, studies and research, as well as meetings, seminars and conferences on legal equality and equal opportunities; promotes, encourages and organizes initiatives aimed at promoting the participation of all citizens in political, social and economic life based on the principle of legal equality and equal opportunities; fosters the collection and dissemination of data and information on the implementation of the principle of legal equality and equal opportunities; participates in the works of international bodies dealing with legal equality and equal opportunities.

The Authority for Equal Opportunities was established by Article 34 of Law no. 97 of 20 June 2008 and is composed of three members appointed by the Great and General Council for a four-year term, chosen from among legal experts, representatives of associations or NGOs operating in the field of equal opportunities as well as communication experts and psychologists. The composition must ensure the participation of each of the professional experts mentioned above. Members of the Authority currently do not receive any remuneration or attendance fees.

The Authority is competent for preventing and combating violence against women and gender violence, thus replacing the Commission for Equal Opportunities; it assists the Commission in the exercise of the following functions and powers: suggesting to the relevant institutional bodies the initiatives necessary to ensure full legal equality and equal opportunities; submitting complaints to the competent bodies, which are required to respond; promoting surveys, studies and research, as well as meetings, seminars and conferences on legal equality and equal opportunities; promoting, supervising and encouraging the implementation of initiatives aimed at promoting the participation of all citizens in political, social and economic life on the basis of the principle of legal equality and equal opportunities; fostering the collection and dissemination of data and information on the implementation of the principle of legal equality and equal opportunities, using public structures and bodies and using means of communication, broadcast media, press, IT and electronic means; participating in the work of international bodies dealing with legal equality and equal opportunities.

The Authority collects data on violence against women and gender violence on a six-monthly basis and draws up an annual report that is submitted to the Captains Regent at the audience that takes place every year on 25 November, as part of the events organized for the International Day for the Elimination of Violence against Women. Such report contains the data collected throughout the year and is widely distributed. In short, and to simplify, the Commission for Equal Opportunities has a more "institutional" function to support institutions, while the Authority for Equal Opportunities is of a more operational and "territorial" nature.

The State budget contains a specific chapter dedicated to the Authority for Equal Opportunities (the 2020 expenditure chapter 1-2-4497 - Charges for the activities of the Authority for Equal Opportunities -, amounts to Euro 15,000.00), which is currently allocated to training initiatives. Neither remuneration nor reimbursement of expenses is currently provided for members of the Authority for Equal Opportunities.

Article 5 of Law no. 57 of 6 May 2016 - Rules adjusting San Marino legal system to the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) - provides for the establishment of a further fund, called Victims Assistance Fund earmarked for the Authority of Equal Opportunities.

The Authority for Equal Opportunities is responsible for the identification of the need to provide adequate financial assistance to victims, based on the availability of the Fund and in relation to the specificities of the case.

The Fund may be accessed by victims of all forms of violence covered by the Convention, committed or attempted in the territory of the Republic, whether they are San Marino citizens, residents or stay in the territory of the Republic and who are facing economic hardship (even temporarily). The Authority for Equal Opportunities, having ascertained the need referred to in paragraph 3 of Article 5 of Law no. 57/2016, orders the timely allocation of the set amount, to be provided for by the Department of Institutional Affairs and Justice.

As established in Delegated Decree no. 56 of 17 May 2018 - Provisions for the operational independence of the Authority for Equal Opportunities - with regard to the management of the Victims Assistance Fund referred to in Article 5 of Law no. 57 of 6 May 2016, the Congress of State shall establish a special demand account, for which it shall authorise the opening of an ad-hoc current account, in favour of the Department of Institutional Affairs and Justice which, according to the guidelines and indications of the Authority, is responsible for its administrative management.

This fund also includes the proceeds relating to compensation for damages ordered by the Court to be paid to the Authority, for proceedings in which the Authority is a plaintiff. In the 2020 State budget, this amount is equal to Euro 3,435.00.

As mentioned in the introduction, the public services provided by the State of San Marino guarantee a good level of attention and care in the areas covered by the Convention. There are no specific NGOs, which are exclusively active in combating violence against women and gender violence. An association, called Unione Donne Sammarinesi (Union of San Marino Women) has been recently re-established: this is a non-partisan civic committee set up to promote, support and achieve a more socially inclusive society, without discrimination on any ground, on the basis of a former association of the same name, which was active in the period 1972 - 1987 and had contributed in a decisive way to raise awareness in the San Marino community on the issues of women's civil and political rights.

Since 1989, the Soroptimist International of Europe Single Club of the Republic of San Marino has been active, made up of a group of women with solidarity purposes for international projects. There are other associations active in assisting people who are socially disadvantaged or

in emergencies; these are often San Marino sections of international institutions such as Caritas, the Red Cross or the Pope John XXIII Community.

Since its establishment, and thanks to several legislative changes that have strengthened its powers and responsibilities, the Authority for Equal Opportunities has played an important role in coordinating and providing impetus in the areas covered by the Convention, both in terms of training at all levels and in relation to the various protection services providing response to the phenomena of violence against women, domestic and gender violence. The Authority has assisted, supported and participated in all kind of initiatives on women's violence, by drafting reports, organising meetings, conferences, courses, publications etc.

As mentioned above, the Authority for Equal Opportunities is responsible, pursuant to Art. 34 of Law no. 97 of 20 June 2008 - Prevention and elimination of violence against women and gender violence - for storing and disseminating data on gender-based violence. To collect such data, the Authority for Equal Opportunities cooperates with the Health Authority, pursuant to Art. 5 of the aforementioned Delegated Decree no. 60 of 31 May 2012.

The latest available data relate to the period 1 January - 31 October 2018 and can be summarised as follows:

With regard to civil law, 51 cases were initiated, 40 of which were filed. As of 31 October 2018, 11 out of the 51 cases initiated in 2018 are pending.

As at 31 October 2017, the following cases were filed:

5 cases initiated in 2017;

40 cases initiated in 2018.

Out of the 40 cases filed in 2018, 12 concerned domestic violence, while 28 violence against women and gender violence.

As of 31 October 2018, the following proceedings are still pending:

1 case initiated in 2014;

2 cases initiated in 2015;

8 cases initiated in 2016;

5 cases initiated in 2017;

11 cases initiated in 2018;

With regard to criminal law, 18 proceedings were initiated in 2018, 1 of which was filed in 2018.

Pursuant to Art. 20 of Law no. 97/2008, the Authority brought civil action in the proceedings for violence against women and children in 2018, as it always happens with criminal proceedings.

Annexes 1 and 2 contain more detailed data and charts.

All data collected by the Authority for Equal Opportunities are published annually, in a specific section of the SSI web site (<http://www.iss.sm/on-line/home/violenza-sulle-donne-e-di-genero.html>), together with an explanatory report, details on legislation and further indications.

According to the data collected by the Authority for Equal Opportunities, complaints of violence against women and gender violence are usually addressed to the Police Forces, primarily the Gendarmerie. This Corps is required to transmit any such report to the judicial authority,

under penalty of the sanction provided for by Art. 19, paragraph 4, of Law 97/2008. The Inter-agency Operations Centre also collects the number of calls made to Police Forces to seek help in case of family disputes, which do not always correspond to domestic violence.

III. PREVENTION

(Chapter III of the Convention, Articles 12 to 17)

Following the entry into force of Law no. 97 of 20 June 2008 - Prevention and elimination of violence against women and gender violence - having recognised that an effective response to the phenomenon can only be provided by an efficient network of services and offices constantly cooperating with each others, the Social Security Institute has taken on the task of coordinating all services and bodies involved, both in San Marino (Ministries, Departments, Court, Law Enforcement, School, etc..) and in the neighbouring Italian Republic (affiliated facilities, trainers, supervisors, etc..).

Two units of the SSI, the Mental Health Unit and the Minors' Protection Unit, each for its respective sphere of competence, have been designated as responsible for assessing and taking charge of violence reports transmitted by the Judicial authority. Such services are directly accessible by victims and provide psychological treatment to victims of violence. Since 2010, large-scale in-service training has been provided to all SSI professionals who could potentially assist victims of violence. Social workers, psychologists, educational staff, medical doctors, nurses, midwives and healthcare professionals received initial training on: understanding of the phenomenon and main forms of gender-based violence; reception procedures for victims of violence; assistance and intervention tools; risk factors and consequences of violence; creation of a network to take care of and treat victims.

The topics covered were: reception and taking care of women victims of violence; reception and health care for women victims of sexual violence; assistance in case of sexual violence against children; clinical supervision in cases of violence against women, children and gender-based violence; taking care of cases of violence against the elderly and people with disabilities; supervision and legal training on San Marino and international legislation; prevention of violence against children and promotion of positive parenting.

With the ratification of the Istanbul Convention, an internal network has been set up within the SSI made up of those organisational units that are most commonly involved in cases of violence: Emergency Room, Mental Health, Minors' Protection, Gynaecology, Paediatrics, Women's Health and Primary health care. Moreover, a coordinator has been appointed for all representatives of the anti-violence network, who is also responsible for inter-agency coordination with the Authority for Equal Opportunities and Law enforcement agencies.

With the entry into force of the Convention, the network has been extended to include those organizational units dealing with the elderly and people with disabilities. The SSI network cooperates with other institutions and agencies: Authority for Equal Opportunities, Department

of Human Sciences of the University of San Marino, Court, Law enforcement agencies, school, professional associations of psychologists and lawyers, free associations.

The widespread networking between SSI services and other institutions has been essential to spread gender in culture and to acquire the appropriate skills in the fields of reception, treatment and support to women.

The training provided to all SSI professionals dealing with the phenomena of violence against women and gender-based violence is as follows:

2012-2013 - December / April: Introductory and awareness-raising meetings on the phenomenon of violence - by the Education Department, in collaboration with the University of Bologna;

September - December 2013: Gender-based violence as a public health problem: suggestions for reception and care by Maria Maffia Russo;

February - June 2013: Prevention of child abuse and promotion of positive parenting by Maira Pedrocchi;

2014: In-service training on gender-based violence by Maria Maffia Russo (20/05/14);

In-service training on gender-based violence by Maria Maffia Russo (03/06/14);

Medical semeiotics of prepubescent child sexual abuse by Giolitto (24/10/14);

Primary health care and gender-based violence (12/11/14);

2015 - Combating violence against women by Alessandra Bagnara, Association "Linea Rosa" (2 and 9/2/15)

- The protection tools provided for by Law 97/2008 by Antonella Bonelli (6/10/15);

2016 - Internal training for the hospital staff presenting the procedures to take charge of victims of violence and the reporting form.

2017 - Psychophysical reporting in cases of gender-based violence (4/5/17) by Maria Maffia Russo;

- Violence on vulnerable patients (15/11/17) by Cilla Donatina;

- Analysis of a clinical case of violence (20/10/17) by Maria Maffia Russo;

- Analysis of a clinical case of home visiting (17/11/2017) by Maria Maffia Russo;

- Presentation of procedures in case of violence (24/11/17), SSI Direction, by Stefanelli and Baldacci.

2018 - Training and analysis of clinical cases of violence by Maria Maffia Russo (20/04, 18/05, 22/06, 05/10, 16/11/2018) dedicated to the following organisational units: Mental health, Minors' protection, Women's health, Service for people with disabilities, Residential Elderly Care and Home Care Territorial Service.

- Supervision and legal training on gender-based violence by Gianpaolo Pasquali (07/05 and 11/06/2018): main contents of the San Marino legislation on violence against women, children and gender-based violence and main changes introduced following the signing of the Istanbul Convention.

- Training course: Reception and health assistance to women victims of sexual violence, by Marinella Lenzi (12/10/2018). The units that received the training were Mental Health, Minors'

Protection, Women's Health, Paediatrics, Obstetrics and Gynaecology, Emergency Room, Surgery, Primary Health Care, Home Care Territorial Service, Service for people with disabilities, Residential Care for the Elderly, Dermatology and laboratory for analysis.

2019- Training: Medical approach to child sexual abuse, by Giolitto (11/02);

- Analysis of clinical cases of violence, by Maria Maffia Russo (26/2, 31/5, 5/7, 4/10);
- Training: Sexuality, affectivity and disability, by Francesca Salis (13/3);
- Training: From trafficking to gender-based violence, by Pinelli (10/04);
- Training: Zooanthropology of deviance and animal and human mistreatment, by Boaron, Sorcinelli and Commander Faraone (13/06).

Over the last two years, the SSI has continued providing training in the field of violence against women and gender-based violence, with the specific aim of raising awareness of risk conditions that, otherwise, would remain hidden, and has extended it not only to professionals but to all operators who may be more or less indirectly involved in this process.

In addition to the activities in the field of prevention, taking charge and treatment of victims of violence, when collaborating with the San Marino and Italian interfaces of the anti-violence network, the SSI:

- has participated in the technical working group that led to the drafting of Decree no. 56 of 17 May 2018 together with the Ministry of Health, the Department of Foreign Affairs, the Department of Institutional Affairs and Justice, the Law enforcement agencies and the Authority for Equal Opportunities;
- arranged and signed in August 2018 an agreement with the “Breaking the silence on violence against women” Association in Rimini for the reception of women victims of violence or mothers with children in shelters;
- arranged and signed, in September 2019, a collaboration agreement with the association “Il Confine”, for the provision of counselling and intervention services to perpetrators;
- organised and conducted prevention meetings on health education: affectivity and sexuality in school;
- organised and conducted workshops to prevent bullying and foster positive relationships among pupils in class or workshops to recognize and manage emotions.

In accordance with the guidelines of the Convention and in collaboration with the Ministry of Health, the Ministry of Labour and the Authority for Equal Opportunities, the SSI has carried out the following activities:

1. meetings with centres dealing with psychological treatment of men abusers and signing of a collaboration agreement;
2. meetings to set up a 24/7 telephone helpline to provide advice to callers victims of violence;
3. meetings for the definition of victim assistance programmes with regard to financial support, housing and employment services.

Besides collaborating for the organisation of training plans dedicated to the SSI staff, the Department of Human Sciences of the University of San Marino organizes a strong information and awareness campaign addressed to school, but also to the network of services and to citizens.

In 2018 a week-long programme of events and activities was organised on the occasion of the "International Day for the Elimination of Violence against Women" under the high patronage of Their Excellencies the Captains Regent, in collaboration with the Authority and Commission for Equal Opportunities, the Association of Psychologists, the Township Councils as well as private associations and bodies. The programme included public theatre performances, performances dedicated to school, book presentations, conferences, round tables. Moreover, the entire San Marino teaching staff attended a specific training module between November and December 2018 on the following theme: "Detecting ill-treatments and abuses in the school environment" in collaboration with CISMAI (Italian Coordination of services against child ill-treatment and abuse).

In 2019, the Department of Human Sciences of the University of San Marino organized:

- conferences, events, movies, theatre performances on the occasion of the "International Day for the Elimination of Violence against Women". Some initiatives arouse great interest and received wide media coverage: the installation of a red bench in the AUSA Park in Dogana, to remember the victims of the femicide; the lighting up of the Third Tower in orange; the exhibition "make up violence", by the students of the course for beautician and hairdresser of the Vocation Training Centre;
- the show-conference: "Screens, if you know them, you don't avoid them" by and with Loredella Zanardo, famous writer and documentary film-maker, warning against the dangers of the web and addressed to citizens, students and teachers of San Marino high school, Vocation Training Centre, students of the bachelor's degree Communication and Digital Media;
- the seminar "theatre of doing", on the themes of diversity, identity building and gender relations, but also on the concepts of equality, equal rights and prevention of violence, while experimenting good practices of cooperation between different cultural actors and addressed to a group of primary school teachers;
- specific training for law enforcement officers, which took place between February and March 2019, in collaboration with the "Artemisia" Association from Florence, specialised in training educational staff and professionals to provide them with the right tools to deal with problems related to domestic violence, family problems and child psychology.

Worth noting is that the Department of Human Sciences of the University of San Marino, since 2012, has organised important initiatives of awareness raising and training, addressed to various target groups, both people involved in the issue and citizens; the above-mentioned training courses only concern the last two years. It should also be noted that similar programmes and initiatives are planned for the year 2020.

With regard to media sector, Art. 3 of Law no. 97 of 20 June 2008 - Prevention and elimination of violence against women and gender violence - regulates the activities of mass media and discriminatory disclosures in the field of violence against women and gender-based violence.

This Article reads as follows:

"Mass media shall contribute to fostering and safeguarding equality between men and women and shall avoid any form of gender-based discrimination.

The use of images or expressions that are detrimental to individual dignity and identity, or having a discriminatory content, including references to a person's sexual orientation or gender identity in general, also for advertising purposes, is prohibited.

The specifically appointed Equal Opportunities Authority can request the Law Commissioner on its own initiative or upon notification made in writing by any interested person:

a) to prevent the circulation of images, information or references that do not comply with the prohibition referred to in paragraph 2;

b) to prevent their further circulation and to eliminate their effects; without infringing on the right of the person portrayed or mentioned to apply for damages.

After listening to the party against which the measure is to be taken, the Law Commissioner issues a decree. In particularly urgent cases and when the party against which the measure is to be taken is not a resident or is not based in the Republic of San Marino, or has no legal representation in the trial, the Law Commissioner can order the enactment of the measure without a preliminary hearing.

Anyone who does comply with the order issued pursuant to the previous paragraph shall be punished as described in Article 366 of the Criminal Code.

The decree issued by the Law Commissioner can be challenged before the Judge of Appeal for nullity, but this shall not affect the enactment of the measure unless the Judge of Appeal should decide otherwise.

The State Law Office shall provide legal assistance to the Equal Opportunity Authority in court proceedings.

Trial records are exempt from legal taxes."

In order to implement this provision, the Code of conduct for media professionals, approved by the Council for Information on 22 June 2016 and subsequently by Delegated Decree no. 90 of 31 July 2017, incorporates the contents of Article 3 in numerous articles, aimed precisely at protecting the weaker parties. They enshrine the principles of non-discrimination, protection and confidentiality of victims of violence and abuse in the field of communication and media.

Worth mentioning:

- paragraph 3 of Article 3 entitled "*General duties of media professionals*" reading: "*Media professionals shall have the duty to respect the person, his/her dignity and right to privacy and shall never discriminate against anyone on grounds of racial, ethnic, national, geographical and social origin, religion, sex, sexual orientation, physical or mental condition, political opinions*";

- Article 5, "*Principles of non-discrimination*" reiterates that "*Media professionals shall not discriminate against anyone on grounds of racial, ethnic, national, geographical and social origin, religion, sex, sexual orientation, physical or mental condition, political opinions*";

- paragraph 4 of Article 6, "*Right to report and right to privacy*", reads: "*The names of victims of sexual violence shall not be published, nor shall details be provided which could lead to their identification, unless requested by the victims themselves for reasons of substantial public interest*".

The Code of conduct also includes Article 7 "*Child protection*" and Article 8 "*Protection of vulnerable people*".

The Supervisory Authority for Information as per Law no. 211 of 5 December 2014 - Law on publishing and the profession of media operators - supervises and monitors the activity of media, so that they do not take advantage of their activity to discriminate or incite discrimination.

IV. PROTECTION AND SUPPORT

(Chapter IV of the Convention, Articles 18 to 28)

As pointed out in the introduction, considering the characteristics of our territory, in San Marino there is no sheltered accommodation, because they would not meet the requirement of confidentiality.

SSI currently has concluded agreements with Italian associations/facilities that are able to offer reception, protection and support to victims of violence:

- 1) Association "Breaking the Silence" (Rimini) - women and women with children;
- 2) Social cooperative "Il Millepiedi" (Rimini) – pregnant women and women with children;
- 3) Casa di Sant'Anna (Rimini) – women, pregnant women and women with children;
- 4) Casa "Don Orione" (Fano) – pregnant women and women with children;
- 5) Association "Segno" (Montefiore Conca) - children.

Competent SSI Services (Mental Health and Minors' Protection) can place victims of violence in need of protection in these facilities, by agreeing the objectives of the assistance programme with the responsible persons of such facilities.

In the event of an emergency reported by San Marino competent Services, the above-mentioned facilities commit themselves to ensuring immediate reception of the victims.

If it is not possible to find immediate reception in a shelter, SSI may resort to Social Hospitalisation for the time necessary to find a suitable accommodation. In case of social urgency, this type of hospitalization will be arranged within the State Hospital to meet the need for protection of adults or children who do not need medical care.

As far as shelters are concerned, at the time being SSI has concluded agreements with four facilities for adults and one facility for children, which are all located in San Marino surrounding areas. The Mental Health Unit, the Minors' Service and the Centre of Assistance operate within the territory.

Nearby shelters are selected by the competent SSI services, in agreement with the Health Authority, which verifies the fulfilment of the requirements as regards accommodation, staff, facilities and general conditions of the shelter; regular agreements are signed with such facilities.

The staff, currently employed in domestic facilities, includes: 3 social workers and 2 psychotherapists at the Mental Health Unit; 3 social workers, 2 psychotherapists, 3 educators, 1 healthcare professional at the Minors' Service; 1 psychologist at the Centre of Assistance.

The staff is available from Monday to Friday.

For each category of victims, the number of places is as follows:

- 2 for pregnant women and women with children;
- 1 for women and women with children;
- 1 for women, pregnant women and women with children;
- 1 for children.

The number of victims, who have been placed in the shelters that have an agreement with SSI and are located outside San Marino, is as follows:

- 2012: 1 woman with 1 child;
- 2014: 1 woman;
- 2017: 1 woman with 2 children - 1 woman.

For an appropriate and effective reception and treatment of women victims of violence and children, SSI has prepared a specific protocol that defines and coordinates the social and healthcare process to take charge of the victim of violence, establishes standard actions to be undertaken to protect the victims of violence, provides clear and unambiguous references to all the stakeholders in the process regarding steps, schedule, modalities, responsibilities and regulatory obligations. The procedural protocol dates back to 26 November 2016. An update is currently in the pipeline and awaiting appropriate approval by SSI Executive Committee.

The Centre of Assistance to support victims of violence (Art. 2 of Delegated Decree 60/2012) was established in 2013 thanks to a fruitful cooperation between public and private sectors. In 2014, the Centre approved its logo and issued an information brochure, which was distributed to the population, also in cooperation with the State Broadcasting Corporation (San Marino RTV) The Centre of Assistance provides first aid and assistance to victims of domestic and gender violence. At the Centre, victims are received, informed and supported, and the number of persons resorting to it has slightly but steadily increased in recent years. The Centre takes active part in several initiatives to raise awareness and provide information to other stakeholders, schools and citizens. Over the years, the Centre of Assistance, thanks to its expertise in the field of assisted psychology, the synergy between public and private sectors, the involvement of associations and volunteers, has managed to play a strategic role of coordination between social assistance network in the field of violence against women and domestic violence, which is recognised by the entire population.

Recently, thanks to the synergy between Health Authorities, SSI Specialised Services and Law Enforcement Agencies, a telephone helpline (Art. 24 of the Convention) is being set up, which will operate round-the-clock (24/7).

The Institutional and Technical Panel referred to in Art. 6 of Delegated Decree 60/2012, is aimed at coordinating the actions of public institutions to effectively combat violence against women. The Panel, coordinated by the Authority for Equal Opportunities, was set up following

an initial stage, during which the Authority and the persons responsible for the services and the facilities that are entrusted by law with specific tasks in the field of assistance to the victims, thus following up on the cooperation initiated during the Pan-European Campaign. At this stage, the various stakeholders have agreed on the need for the coordination of services and the launch of appropriate regulatory processes.

This activity was particularly useful for structuring and training Law Enforcement Agencies. The Gendarmerie has set up a special squad called "children and gender violence", which over time has specialised in such field by participating in various meetings with the Authority for Equal Opportunities, during which training protocols were established. The role of the Law Enforcement Agencies is particularly important because of their presence in the territory and they can assist the victims of violence who can turn to them with trust.

A technical and institutional Panel, composed of representatives of the Authority for Equal Opportunities, the Gendarmerie, the Civil Police, the SSI Directorate General, the Association of Lawyers, the Association of Psychologists, the Schools and the Court, provides an opportunity for officers combating violence, to discuss, prepare cooperation agreements, set up networking, provide indications on training needs, and, therefore, is a fundamental tool to implement the objectives defined by domestic and international regulations.

V. SUBSTANTIVE LAW

(Chapter V of the Convention, Articles 29 to 48)

In the hierarchy of sources of San Marino law, international Conventions on human rights are particularly important. Article 2, paragraph 1 of the Declaration of Citizens' Rights and Fundamental Principles of the San Marino Order (Law no. 59 of 8 July 1974 as amended by Law no. 36 of 26 February 2002) states: "*The Republic of San Marino receives generally recognised rules of international law as integral part of its constitutional order, to which it shall conform its acts and conduct. It recognises the provisions set forth in the international declarations on human rights and fundamental*"; moreover, paragraph 4 states that: "*Regularly signed and implemented international agreements on the protection of human rights and freedoms shall prevail over domestic legislation in case of conflict*". Therefore, these agreements are not only recognised as criteria for the interpretation of domestic legislation, or as guiding criteria in the adoption of law provisions, but also and mainly as directly applicable agreements, even in the absence of a specific implementing domestic law and prevail over domestic legislation in case of conflict. This feature is essential to understand the San Marino legal system in this field.

As mentioned in the introduction, Law no. 97 of 20 June 2008 - Prevention and elimination of violence against women and gender violence is a milestone in San Marino legislation concerning the subject of the Convention. The Law stems from a well-established system, based, first, on the provisions of San Marino Criminal Code (Law no. 17 of 25 February 1974 - Passing of

the new Criminal Code) and on the general discipline of family law (Law no. 49 of 26 April 1986 - Reform of family law).

In 2008, the growing awareness of the San Marino community, reflected by public and private initiatives often organised after serious news stories occurred in Italy, led the San Marino Parliament to issue Law no. 97. Its aim was to inform and raise awareness among workers in the sector and the population on the extent and seriousness of this scourge, and to integrate, modify and specify the articles of the Criminal Code concerning violence against women and gender violence, as well as to complete and implement measures regarding the safety and protection of the victims of such violence.

This aspect, in particular, was subsequently further developed, integrated and specified by Delegated Decree no. 60 of 31 May 2012 ratifying Delegated Decree no. 24 of 19 March 2012, in implementation of Art. 4 of Law no. 97/2008, which indicates the tasks of the Authority for Equal Opportunities, establishes the Centre of Assistance, the Shelter Centre, organises training courses and implements measures for the coordination of data collection.

Law no. 57 of 6 of May 2016 - Rules adjusting San Marino legal system to the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) - was issued six days after the entry into force of the Convention. This Law integrates San Marino general regulations with offences that were not expressly included in the Criminal Code, introducing in the legislation all the remaining provisions of the Convention.

Lastly, the Authority for Equal Opportunities was given more operational independence with the adoption of Delegated Decree no. 56 of 17 May 2018 - Provisions for the operational independence of the Authority for Equal Opportunities, which includes technical and specific measures to enable the Authority to operate more effectively and better carry out the functions and responsibilities entrusted to it by law.

The above-mentioned Laws can be found in the Annex.

With regard to the civil remedies against perpetrators (Article 29, paragraph 1 of the Convention), Article 8 of Law no. 57 of 6 May 2016, in full compliance with the provisions of the Convention, expressly states that: “The victims of the acts of violence covered by the Convention shall be given the right to bring action before the competent Judicial Authorities to obtain compensation for any damages resulting from the State Authorities’ failure to take, for wilful misconduct or gross negligence, preventive or protective measures within the scope of their powers, in relation to the offences referred to in the Convention”.

In other words, the victim can appeal to the Judge of the Civil Appeals to request compensation for damages resulting from the State Authorities’ failure to adopt the necessary measures provided for by law to prevent and protect the victims of violence.

With regard to the definition of psychological violence (Art. 33 of the Convention), the term has been included in Art. 2 of Law no. 57 of 6 May 2016. Psychological violence in case of violence against women, or gender and domestic violence is equated in every form and content with physical, sexual or economic violence. The provision includes psychological violence together with other forms of violence.

Art 181 bis of the Criminal Code (introduced by Law no. 97 of 20 June 2008 - Prevention and elimination of violence against women and gender violence) now provides for stalking (Art.34 of the Convention) and mobbing. According to the text thereof:

“Anyone who repeatedly pesters or threatens a person causing severe moral suffering and harming his/her dignity to such an extent as to upset his/her usual life conditions or to intimidate him/her or to cause substantial physical or psychological distress or reasonable fear for his/her own safety and for the safety of the people close to him/her shall be punished upon complaint filed by the offended party by terms of first degree imprisonment and a monetary fine.

If the harassment and threats mentioned in the first paragraph take place in the workplace as ongoing and repeated aggressive and intimidatory behaviours by the employer or colleagues with the intent to discredit, humiliate, or isolate an employee in order to force him/her to resign after causing him/her severe psycho-physical distress, the punishment shall be raised by one degree.

The Court shall proceed upon complaint filed by the offended party.

The Court shall proceed ex officio and imprisonment shall be raised by one degree if the crime is accompanied by the use of a weapon, violence or a particularly serious threat.

The court shall also proceed ex officio if the offence is committed jointly with an offence that can be prosecuted by the court ex officio.”

As mentioned above, physical violence (Art. 35 of the Convention) is defined by Art. 2 of Law no. 57 of 6 May 2016, which states in paragraph 1:

“Violence against a person shall mean any act of sex or gender-based violence that results, or is likely to result in, physical, sexual, psychological or economic harm or suffering to the victim, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.

In San Marino legal system, sexual violence is punished under Articles 171 et seq. of the Criminal Code, which includes among the offences related to the violation of sexual freedom, an immaterial asset subject to utmost protection by legislation. Every person has full right to free, conscious and aware autonomy over his/her own body. Violence, threat or deception, or other equivalent conditions (e.g. hypnotic induction) constitute elements of the criminal offence. From a subjective point of view, any individual may be a victim, regardless of his gender, age or moral and social conditions.

If the violation of sexual freedom involves sexual intercourse, the penalty is increased by one degree if the spouse or the cohabiting partner, i.e. the person who has or has had an emotional relationship with the victim (Art. 172, paragraph 2 of the Criminal Code), commits the act.

With regard to the age of consent, San Marino law considers the person under the age of 14 to lack the capacity to act and self-determine in the field of sexual relationships; therefore, consent cannot be recognised as legally relevant either (see Judgment no. 119 of 1996, Judge Emiliani).

The domestic regulation on forced marriage (ex Art. 37 of the Convention) is established in Art. 176 bis of the Criminal Code, as introduced by Art. 9 of Law no. 57 of 6 May 2016:

“Anyone forcing a person to enter into a marriage shall be punished with third-degree imprisonment. Anyone intentionally luring a person to the territory of a State other than the one she or he resides in with the purpose of forcing this person to enter into a marriage shall be punished with second-degree imprisonment.”

Article 81 of the Criminal Code states that third-degree imprisonment ranges from two to six years, while second-degree imprisonment ranges from six months to one year.

Female genital mutilation (ex Art. 38 of the Convention) is ruled by Art. 156 of the Criminal Code, as introduced by Art. 10 of Law no. 57 of 6 May 2016:

“Anyone excising, infibulating or performing any other mutilation to the whole or any part of a woman’s labia majora, labia minora or clitoris, or coercing a woman to undergo any of such acts, shall be punished with third-degree imprisonment and disqualification. Apart from cases of participation in the commission of the offence, anyone inciting a person to undergo the acts referred to in the preceding paragraph, shall be punished with second-degree imprisonment”.

As far as forced abortion (ex Art. 39 point "a" of the Convention) is concerned, it must be said that in the San Marino legal system abortion is prosecuted criminally sic et simpliciter, despite the fact that there are several popular petitions and debates on the subject, and numerous requests for decriminalization, at least of abortion for health reasons. To date, abortion is punishable under Article 153 of the Criminal Code, which provides for the penalty of third-degree imprisonment (two to six years) for a pregnant woman who procures an abortion and for anyone who contributes to or procures it without the woman's consent. Third-degree imprisonment and fourth-degree disqualification shall apply, if the offender exercises a health profession.

Forced sterilization (ex Art. 39 point "b" of the Convention") is punishable under Art. 154 bis of the Criminal Code, as introduced by Art. 11 of Law no. 57 of 6 May 2016, which states:

“Anyone performing surgery which has the purpose or effect of permanently terminating a person’s capacity to naturally reproduce without his/her prior and informed consent or understanding of the procedure, shall be punished with third-degree imprisonment. Fourth-degree imprisonment and fourth-degree disqualification shall apply, if the offender exercises a health profession”.

The criminalisation of sexual harassment (as provided for in Article 40 of the Convention) is provided for by Article 171 of the Criminal Code as recently applied in a rather striking case of final conviction. Sexual harassment is considered by the San Marino system as a violation of sexual freedom, which is granted to every individual, regardless of his age, condition and gender.

Aiding and abetting (as provided for in Art. 41, paragraph 1 of the Convention) is a general provision of San Marino Criminal Code and concerns all offences, including, obviously, those covered by the Convention. Art. 362 of the Criminal Code provides that:

“Anyone who, apart from cases of participation in the commission of the offence, assists someone in escaping the search by the Authority or securing the product or proceeds of the offence shall be punished by imprisonment and second-degree disqualification from political rights. The ascendant, descendant and spouse, who assist the offender in escaping the search, shall not be punishable.

When the assistance is provided to one or more persons belonging to a criminal association under Article 287 bis of the Criminal Code, the judge may increase the punishment of imprisonment by one degree. The punishment may be increased by two degrees if the assistance is provided on a continuous basis.”

Likewise, the fact of attempting to commit intentionally an offence provided for in the Convention (as provided for in Art. 41, paragraph 2 of the Convention) applies to all types of offences, and is governed by Articles 26 and 27 of the CC:

“Art. 26

(Failed attempt to commit a criminal offence)

The uncommitted offence is punishable as an attempted offence when the party concerned, with the intention of committing a crime, has undertaken to do so with suitable means without having been able to accomplish the fact.

In this case, the punishment can be reduced from one to two degrees.

An unperformed agreement to commit a crime is not punishable. However, the judge may apply a safety measure.

Unless provided differently by the law, the provision established by the previous paragraph also applies in case of disregarded or not performed incitement.

Art. 27

(Unsuccessful crime)

The crime is unsuccessful when the offender has accomplished all the actions required to commit it, but the event has failed to occur.

The punishment in this case can be reduced by one degree”.

With regard to the provision in Article 42 of the Convention (i.e. unacceptable justifications for crimes, including crimes committed in the name of so-called "honour"), San Marino Criminal Code does not include, among mitigating circumstances, the justifications mentioned in Article 42 of the Convention. In addition, a specific Article of Law no. 57 of 6 May 2016 (Art. 14) states that “Culture, custom, religion, tradition or honour shall not be regarded as justification or mitigation of punishment for the offences covered by the scope of the Convention”.

With regard to Article 43 of the Convention, according to which the offences established in accordance with the Convention apply irrespective of the nature of the relationship between victim and perpetrator, it should be noted that the San Marino Criminal Code usually provides for rules with *erga omnes* effect. Moreover, the Code also provides for that, in case of special relationships between perpetrator and victim, this increases the liability of the perpetrator and consequently the penalty imposed to him, in particular in case of sexual offences. More specifically, paragraph 2 of Art. 171 of the CC provides that:

“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.”

In this regard, Article 174 of the Criminal Code rules:

“Anyone who, other than in the cases provided for in Articles 171, 172 and 173, commits lewd acts on a person admitted to hospital, hospice, boarding school, re-education home or on a person who is kept in custody or held in detention, over whom he/she has authority, or on a person entrusted to him/her for official purposes, shall be punished by first-degree imprisonment and fourth-degree disqualification from public office, profession or art.”

The penalties provided for in the San Marino legal system specifically for the offences referred to in Articles 34 to 40 of the Convention, provided that they do not include other categories of offence and there are no particular aggravating or mitigating circumstances are as follows:

- stalking, Art. 34 of the Convention: first-degree imprisonment and fine (Art. 181 bis of the Criminal Code)
- sexual violence, Art. 35 and 36 of the Convention: third-degree imprisonment (art. 171 of the Criminal Code);
- forced marriage, Art. 37 of the Convention: third-degree imprisonment (Art. 176 bis of the Criminal Code);
- Female genital mutilation, Art. 38 of the Convention: third-degree imprisonment and disqualification (art. 156 bis of the Criminal Code);
- forced abortion, Art. 39, a) of the Convention: second-degree imprisonment (Art. 153 of the Criminal Code);
- forced sterilization, Art. 39 b) of the Convention: third-degree imprisonment (Art. 154 bis of the Criminal Code);

Ancillary penalties may include fines, disqualification from parental authority and guardianship, disqualification from the profession or art.

As regards family mediation, San Marino legislation is quite recent (Law 29 May 2013 n. 57) and is conceived as an alternative dispute resolution process to be preferred to resorting to Judicial Authority. The family mediator is an experienced and trained professional who supports the family relationship during a crisis, with particular attention and care for the interest of the children involved. In any case, this process is always and solely voluntary. The Judge in charge of the proceedings of legal separation of the couple, in case his attempt to reconcile the parties is unsuccessful and exclusively in the presence of children to be protected, invites the parties to resort to family mediation. The professional mediator is jointly chosen by the parties or, in case of disagreement, by the Judge. In any case, the Judge supervises and verifies the progress of the mediation after three months. One or both parties, in which case the case returns to the Judge’s jurisdiction, may interrupt family mediation at any time.

VI. INVESTIGATION, PROSECUTION AND PROCEDURAL LAW AND PROTECTIVE MEASURES

(Chapter VI of the Convention, Articles 49 to 58).

The Judicial Authority is responsible for, supervise the State's enforcement activity against perpetrators, and implements the measures provided for by law to protect and support victims, according to the law.

Magistrates are trained and strive to provide a prompt and appropriate response to the crimes provided for in the Criminal Code; among these, the protection of the weakest crime victims (victims of domestic violence and of violence against women), is one of their priorities.

Art 30 of Law of 28 April 1986 - Family Law- and, with regard to the provisions of the Convention, by Art. 22, 26 and 27 of Law no. 97 of 20 June 2008 provide for barring orders.

This measure shall apply where the conduct of the spouse or other cohabiting partner is seriously detrimental to the physical or moral integrity or freedom of the other spouse or cohabiting partner, or even when a member of the household other than the spouse or cohabiting partner behave in such a way. The Judicial Authority issues barring orders to spouses or cohabiting partners having acted in a detrimental way to order them to cease such conduct and vacate the family home. Barring orders may also prohibit perpetrators, where necessary, from approaching the places usually frequented by the applicant, in particular the working place, the birth family's house or other close relatives' houses or other persons' houses as well as the educational institutions attended by the couple's children, unless they have to attend such places for working reasons. Judges may also order, where necessary, the involvement of social services or a family mediation centre, as well as of associations whose statutory purpose is the support and reception of women and children or other victims of abuse and ill-treatment. Judges may also order regular maintenance payments to cohabiting persons who, as a result of the measures referred to in the first paragraph, are left without adequate livelihoods, laying down the terms and conditions of payment and requiring, where appropriate, that the sum be paid directly to the person entitled by the obligated person's employer, deducting it from the remuneration due to the same person. By the same decree Judges establish, in the cases referred to in the previous paragraphs, the duration of protection orders, which starts from the day of their execution. The maximum duration of emergency barring orders is six months and may be extended, at the request of a party, only if there are serious reasons for the time strictly necessary. By the same decree Judges determine the methods of execution. Emergency barring orders issued by the Law Commissioner are enforced by law enforcement agencies and provide for the forced removal of recipients not executing spontaneously. The Law Commissioner may also indicate the appropriate measures to prevent subsequent breach of emergency barring orders, including the supervision and assistance of law enforcement agencies. Such orders are always communicated to the Gendarmerie and to the Neuro-Psychiatric Service for the possible adoption of measures regarding weapons and ammunition.

The judicial authority issues protection orders against domestic abuse. The party concerned may also submit the relevant application. In this case, Judges, having received the application, appoint a defence lawyer from among those enrolled in the list provided for by Article 17 of

Law no. 97 of 2008. The Law Commissioner, after hearing the parties, proceed in the manner he deems most appropriate to conduct investigations, acquiring, even *ex officio*, all appropriate information, and issue a reasoned decree immediately enforceable. In cases of urgency, the Judge, having obtained summary information, where necessary, may immediately issue the protection order and set a date for an oral hearing of the parties within a period not exceeding fifteen days. The Judge may confirm, modify or revoke the protection order during the hearing. Against the decree by which the Judge issues the protection order or dismisses the appeal, or confirms, modifies or revokes the protection order previously issued in the case referred to in the preceding paragraph, a claim for nullity may be lodged with the Judge of civil appeal. Such claim does not suspend the execution of the protection order, unless otherwise ordered by the Judge of Appeal.

Anyone breaching the protection order issued by the Judicial Authority, or a measure of equal content taken in the context of the legal separation or dissolution, or termination of civil effects of marriage proceedings of spouses is punished with first degree imprisonment and third-degree daily fine.

When of violence is committed against children, until establishment of liability, the Law Commissioner may withdraw parental rights from the suspected parent or from the parents who tolerated the violence.

Pursuant to Art. 32 of Law no. 97 of 20 June 2008, if the victim of violence or third parties who have witnessed violence report it to Police Forces, the latter must intervene immediately, and in any case no later than one hour after the report, unless there are serious reasons. Police Forces may enter the victim's home or other private property where the victim is, even by force; they must put an end to the offending conduct; they must inform victims of their rights, including the right to apply for protection orders. If there is fear of serious and irreparable harm, Police Forces must report it immediately to the competent social services, unless the crime is prosecutable *ex officio* or the victim has filed a complaint, in which case the report must be made to the Investigating Judge, who may take appropriate precautionary measures.

Police Forces seize in any case the weapons present in the perpetrator's home and communicate it to the Law Commissioner and the Gendarmerie to initiate the procedure of suspension or withdrawal of the firearms certificate or hunting license. Police Forces are also required to immediately intervene when they receive reports of perpetrators who are or are about to drive vehicles under the influence, taking necessary preventive and precautionary measures. If the request for intervention concerns persecution linked to gender-based violence or violence against women, Police Forces, even regardless of the complaint by the injured party, are required to remove the harasser and report to judicial authorities. Minutes must be drawn up for all interventions, which must be sent to the Gendarmerie and to the Neuro -psychiatric Service. The collected data are transmitted to Authority for Equal Opportunities and are also available to the Civil Judge requested to issue protection orders.

The number of emergency barring orders issued by the judicial authority to a parent is:

- 2 in 2015 and still in force;
- 2 in 2016 and still in force;

- 1 in 2019 and still in force.

VII MIGRATION AND ASYLUM

(Chapter VII of the Convention, Articles 59 to 61)

Paradoxically, compared to the history of the country, which over the centuries has always guaranteed the right to apply for asylum, San Marino legal order does not regulate this right in a specific way.

However, the corresponding measure can be considered the "extraordinary stay permit for humanitarian reasons".

In accordance with Art. 59, paragraph 2 of the Convention, Art. 14 of Law no. 118 of 28 June 2010 - Law on the entry and stay of foreigners in the Republic, as amended by Art. 19 of Law no. 118 of 30 July 2015, provides for

“1. Extraordinary stay permits may be granted to foreigners for specific humanitarian reasons of social protection. Holders of extraordinary stay permits for humanitarian reasons of social protection shall be entitled to receive health assistance and temporary economic benefits from the Social Security Institute and shall have the possibility to work in the Republic of San Marino.

1-bis. Extraordinary stay permits shall also be granted to victims of trafficking and victims of violence, as defined by international human rights instruments ratified by the Republic of San Marino, having regard to their personal situation and/or for the purpose of their cooperation in the context of criminal investigations or proceedings. The permits shall be granted following a favourable opinion from the Authority for Equal Opportunities which, supported by public services and offices, may carry out the necessary investigations.

2. Extraordinary stay permits shall be temporary. “It may be renewed annually until the reasons for social protection exist. For the victims of trafficking and the victims of violence, it shall be renewed in accordance with the instructions from the Authority for Equal Opportunities or the Judicial Authority.”

Article 4, paragraph 1, letter f) of Law no. 97 of 20 June 2008 “Prevention and elimination of violence against women and gender violence” provides for that the State shall:

“create, if necessary, programs for the protection and social integration of the victims of violence, - which also address housing needs and ensure that their residence permit is prolonged, should it expire during the proceeding, at least for the whole duration of the proceeding - professional reintegration, care and support for dependent children;”

Only one request for this type of permit was submitted in the last three years, and it was granted in 2017.

As regards the provision of Article 61 of the Convention, which requires the adoption of measures to ensure that prevent women whose asylum applications are rejected from being returned to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment, it should be pointed out that, given the geographical position of San Marino, i.e. an enclave in the Italian territory, Italy represents the only country of expatriation.



AUTHORITY
PARI OPPORTUNITÀ
SAN MARINO



337-1006218

authority.pariopportunita@istituzioni.sm

STATISTICS ON THE APPLICATION OF LAW NO. 97 OF 20 JUNE 2008 "Prevention and elimination of violence against women and gender violence".

Period: 1 June 2018 to 31 October 2018

Pursuant to Art. 34 of Law no. 97 of 20 June 2008, the Authority for Equal Opportunities is responsible for keeping and disseminating data on violence against women and gender violence. The Authority acts in coordination with the Health Authority in order to guarantee the collection of data (Art. 5 of Delegated Decree no.60/2012)

CIVIL LAW

The attached Table A contains data on the cases provided for by Article 19, paragraph 1, of the above mentioned Law, which concern, following the prescribed reports, the opening of non-contentious proceedings before the Law Commissioner acting as civil Guardianship Judge.

This document does not include reports on ex officio prosecutable offences or those for which a complaint has been filed and those in which the victim is a child, regardless of the gender thereof.

From 1 January 2018 to 31 October 2018, 51 new proceedings were initiated, 40 of which were filed. As of 31 October 2018, 11 of the 51 proceedings initiated in 2018 are ongoing.

As of 31 October 2017, 5 proceedings initiated in 2017 and 40 proceedings initiated in 2018 have been filed.

Out of the 40 proceedings filed in 2018, 12 concerned family disputes, while 28 violence against women and gender violence.

As of 31 October 2018, the following proceedings are still pending: 1 proceeding initiated in 2014, 2 proceedings initiated in 2015, 8 proceedings initiated in 2016, 5 proceedings initiated in 2017, 11 proceedings initiated in 2018.

CRIMINAL LAW

The attached Table B contains data provided by the Court as of 31 October 2018.

In 2018, 18 criminal proceedings were initiated, 1 of which was filed in 2018.



AUTHORITY
PARI OPPORTUNITÀ
SAN MARINO



337-1006218

authority.pariopportunita@istituzioni.sm

The document instituting the proceedings highlights that Law Enforcement Agencies are the main choice for those wishing to make a complaint.

Pursuant to Art. 20 of Law no. 97/2008, the Authority has brought civil action in the proceedings for violence against women and children in 2018.

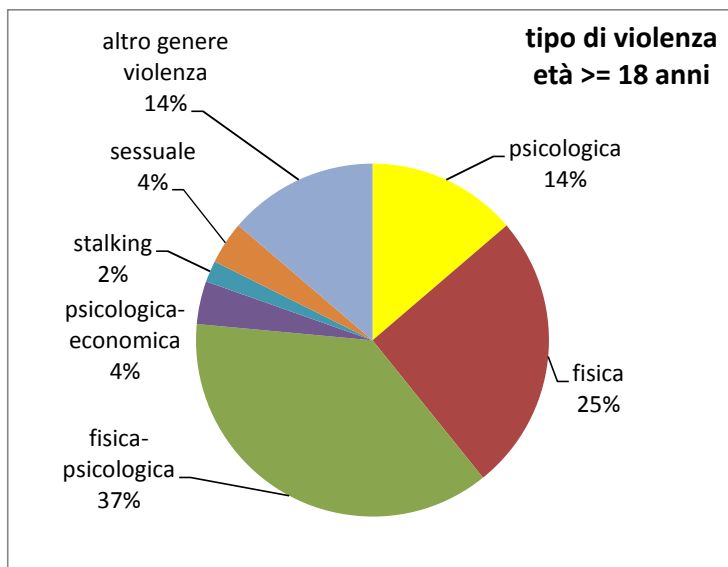
Authority for Equal Opportunities

Antonella A. Bonelli - Laura Muratori - Velio Tilio

tabella A giurisdizione civile dal 1 gennaio 2018 al 31 ottobre 2018

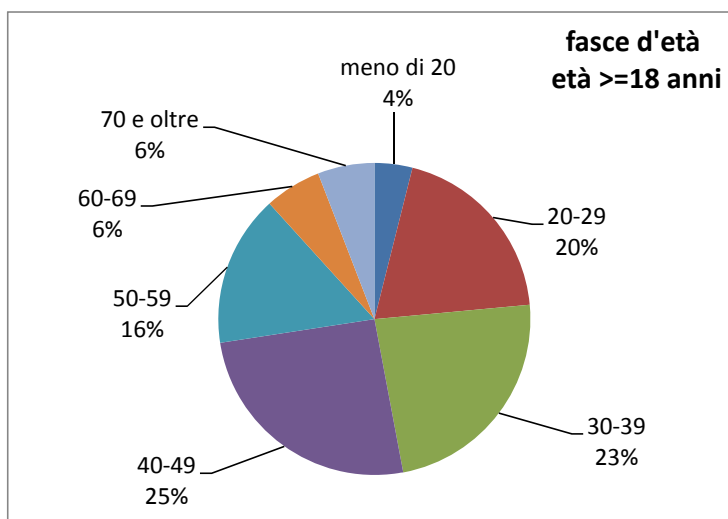
età >= 18 anni

tipo violenza	casi
psicologica	7
fisica	13
fisica-psicologica	19
psicologica-economica	2
stalking	1
sessuale	2
altro genere violenza	7
Totale complessivo	51



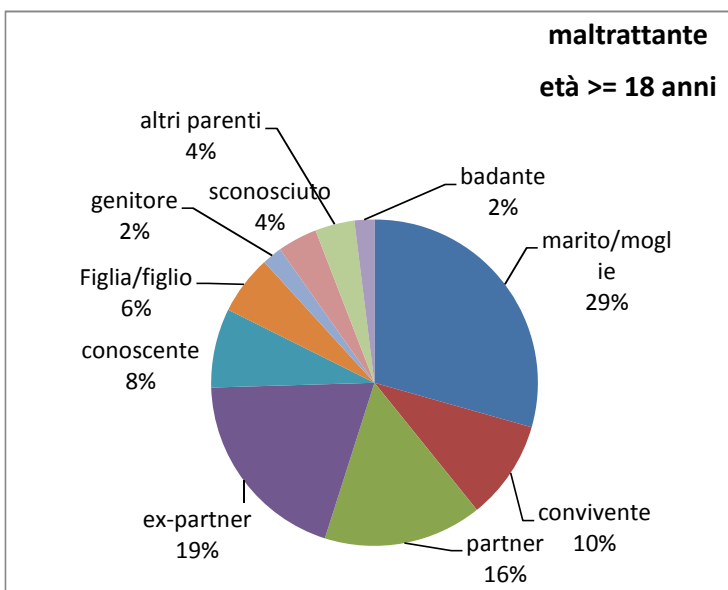
età >= 18 anni

fasce d'età	casi
meno di 20	2
20-29	10
30-39	12
40-49	13
50-59	8
60-69	3
70 e oltre	3
Totale complessivo	51



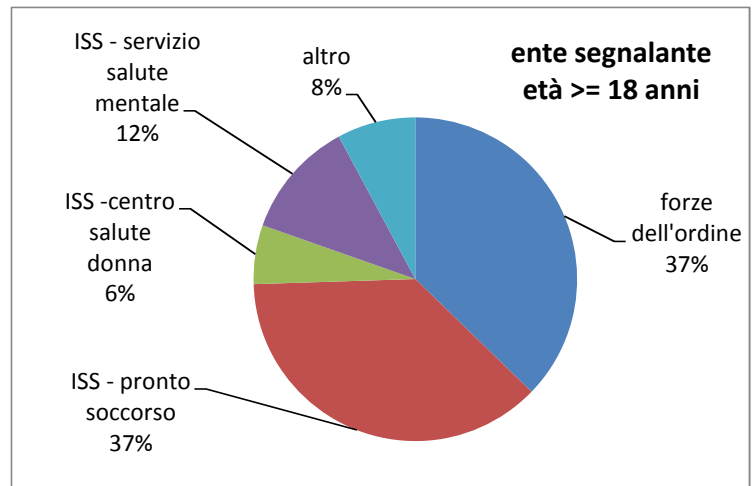
età >= 18 anni

maltrattante	casi
marito/moglie	15
convivente	5
partner	8
ex-partner	10
conoscente	4
Figlia/figlio	3
genitore	1
sconosciuto	2
altri parenti	2
badante	1
totale complessivo	51



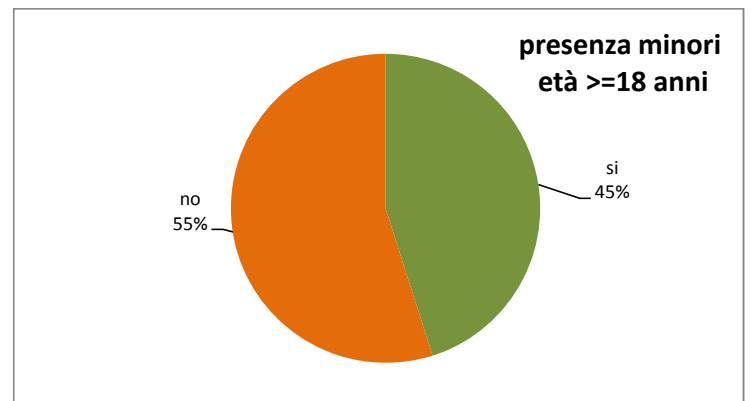
età >= 18 anni

ente segnalante	casi
forze dell'ordine	19
ISS - pronto soccorso	19
ISS - centro salute donna	3
ISS - servizio salute mentale	6
altro	4
Totale complessivo	51



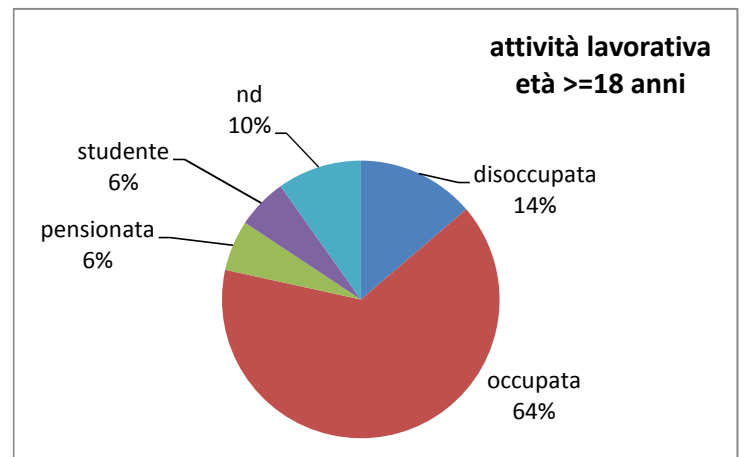
età >= 18 anni

presenza minori	casi
si	23
no	28
totale	51



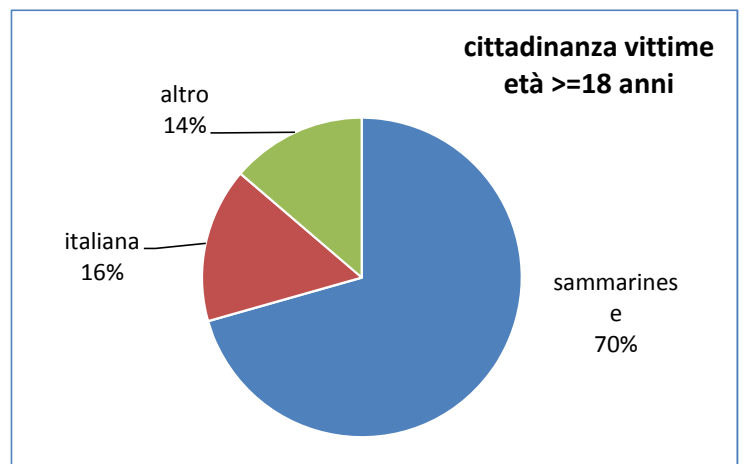
età >= 18 anni

attività lavorativa	casi
disoccupata	7
occupata	33
pensionata	3
studente	3
nd	5
totale	51



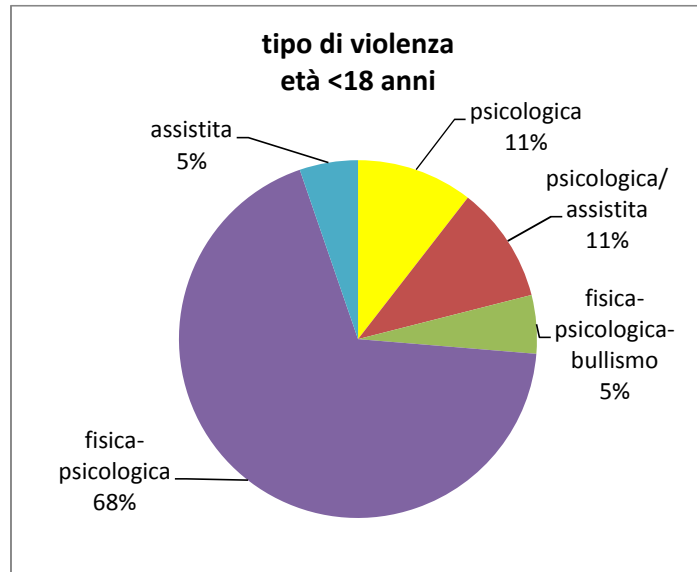
età >= 18 anni

cittadinanza vittime	casi
sammarinese	36
italiana	8
altro	7
totale	51



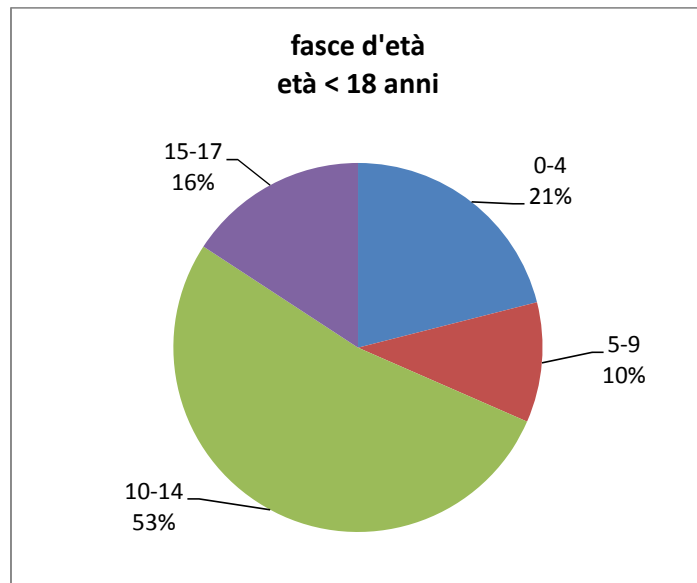
età < 18

tipo violenza	casi
psicologica	2
psicologica/assistita	2
fisica-psicologica-bullismo	1
fisica-psicologica	13
assistita	1
Totale complessivo	19



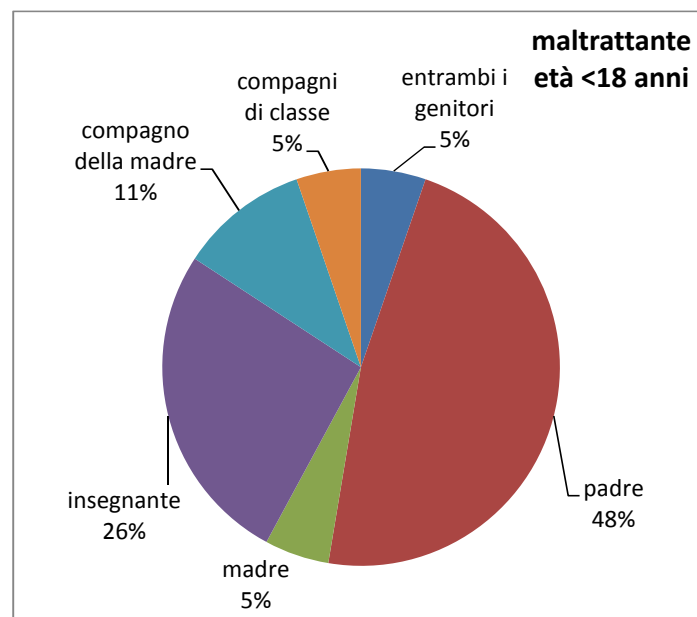
età < 18

fasce d'età	casi
0-4	4
5-9	2
10-14	10
15-17	3
Totale complessivo	19



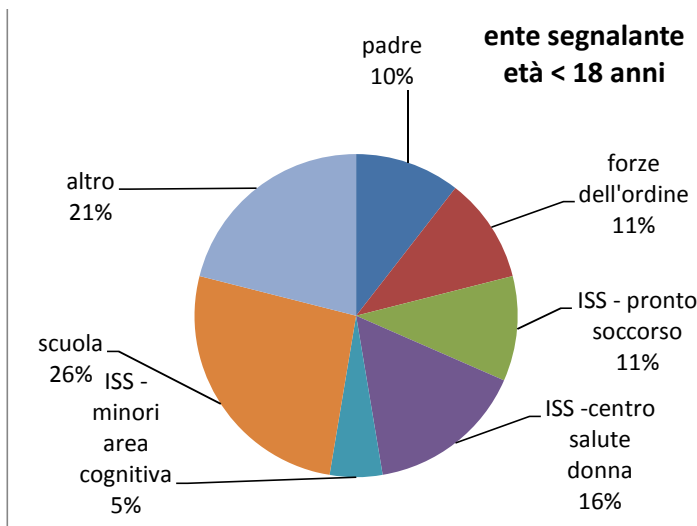
età < 18

maltrattante	casi
entrambi i genitori	1
padre	9
madre	1
insegnante	5
compagno della madre	2
compagni di classe	1
totale complessivo	19



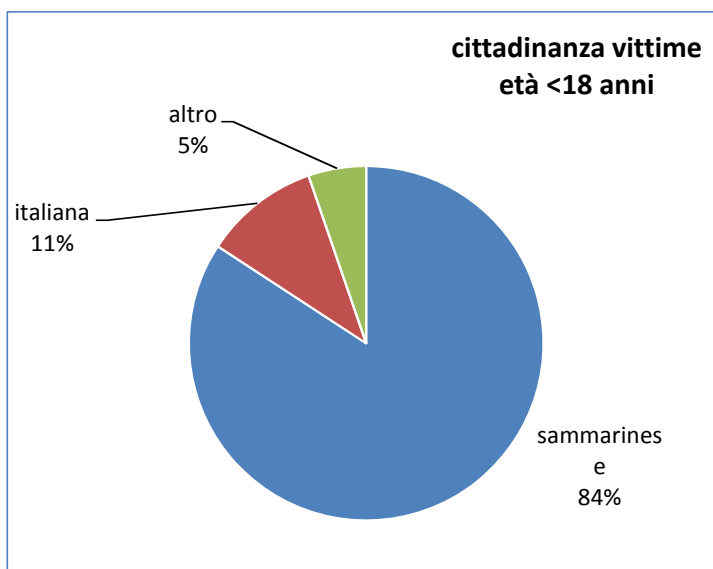
età<18

ente/persona segnalante	casi
padre	2
forze dell'ordine	2
ISS - pronto soccorso	2
ISS - centro salute donna	3
ISS - minori area cognitiva	1
scuola	5
altro	4
Totale complessivo	19

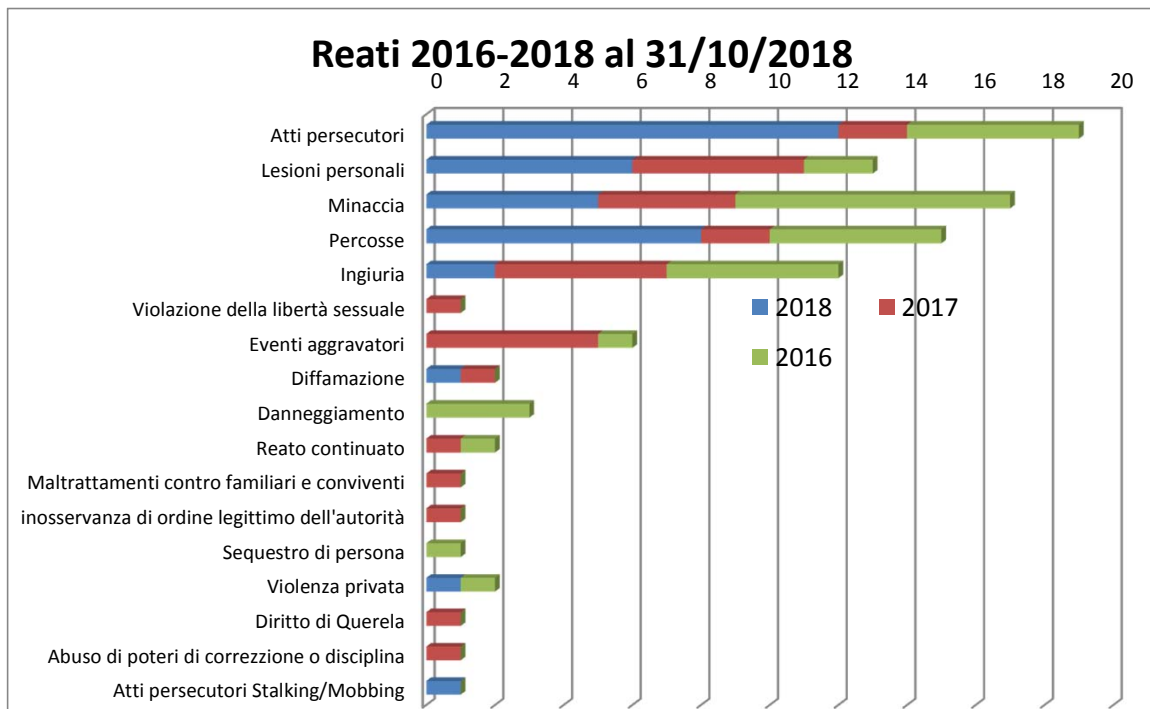


età<18

cittadinanza vittime	casi
sammarinese	16
italiana	2
altro	1
totale	19

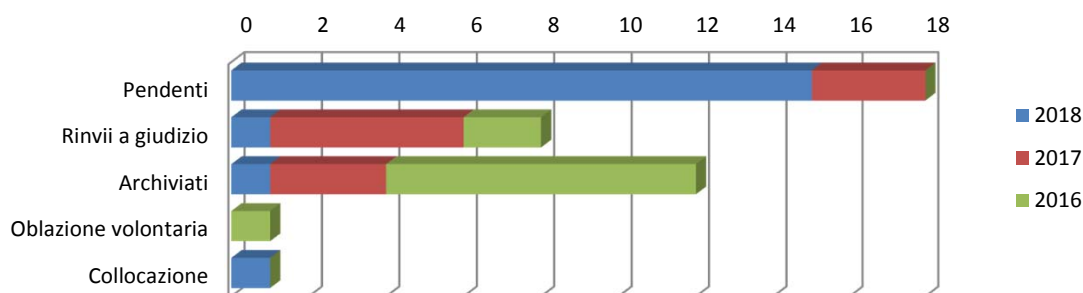


ART.	REATI AL 31/10/2018	2018	2017	2016	TOTALE
181 bis	Atti persecutori	12	2	5	19
155	Lesioni personali	6	5	2	13
181	Minaccia	5	4	8	17
157	Percosse	8	2	5	15
184	Ingiuria	2	5	5	12
171	Violazione della libertà sessuale	0	1	0	1
156	Eventi aggravatori	0	5	1	6
183	Diffamazione	1	1	0	2
203	Danneggiamento	0	0	3	3
50	Reato continuato	0	1	1	2
235	Maltrattamenti contro familiari e conviventi	0	1	0	1
259	inosservanza di ordine legittimo dell'autorità	0	1	0	1
169	Sequestro di persona	0	0	1	1
179	Violenza privata	1	0	1	2
178	Diritto di Querela	0	1	0	1
234	Abuso di poteri di correzione o disciplina	0	1	0	1
13/L97/2008	Atti persecutori Stalking/Mobbing	1	0	0	1
	TOTALE	35	20	21	76



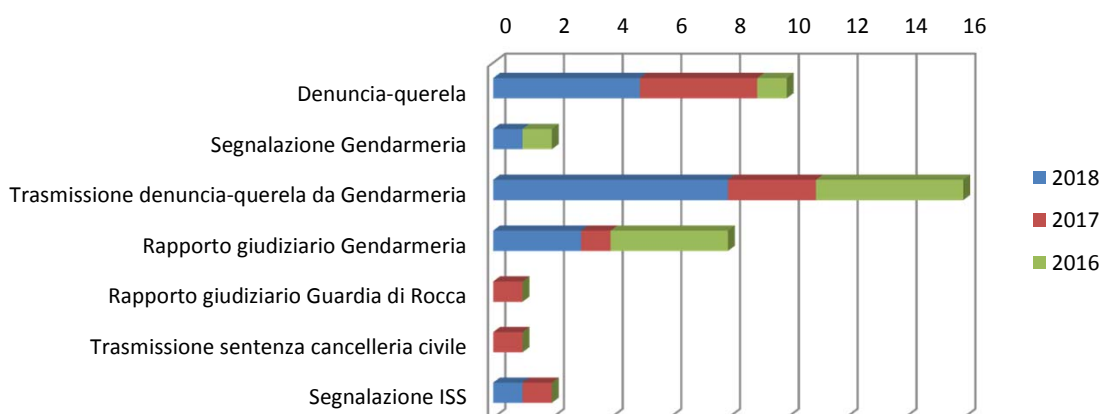
STATO PROCEDIMENTI PENALI AL 31/10/2018	2018	2017	2016	TOTALE
Pendenti	15	3	0	18
Rinvii a giudizio	1	5	2	8
Archiviati	1	3	8	12
Oblazione volontaria	0	0	1	1
Collocazione	1	0	0	1
TOTALE	18	11	11	40

Stato procedimenti penali 2016-2018 al 31/10/2018



ATTO INTRODUTTIVO PROCEDIMENTI PENALI AL 31/10/2018	2018	2017	2016	TOTALE
Denuncia-querela	5	4	1	10
Segnalazione Gendarmeria	1	0	1	2
Trasmissione denuncia-querela da Gendarmeria	8	3	5	16
Rapporto giudiziario Gendarmeria	3	1	4	8
Rapporto giudiziario Guardia di Rocca	0	1	0	1
Trasmissione sentenza cancelleria civile	0	1	0	1
Segnalazione ISS	1	1	0	2
TOTALE	18	11	11	40

Atto introduttivo procedimenti penali 2016-2018 al 31/10/2018



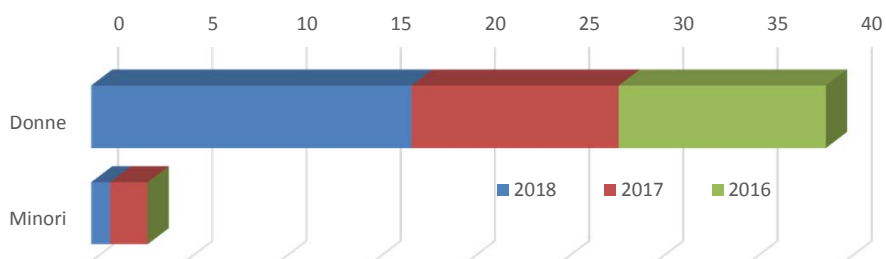
ESITO PROCEDIMENTI PENALI AL 31/10/2018	2018	2017	2016	TOTALE
Sentenza - Condanna	0	1	0	1
Archiviazione - Remissione di querela	0	2	3	5
Archiviazione - Assenza elementi di reato	0	0	1	1
Archiviazione - Non specificato	1	2	4	7
TOTALE	1	5	8	14

Esito procedimenti penali 2016-2018 al 31/10/2018



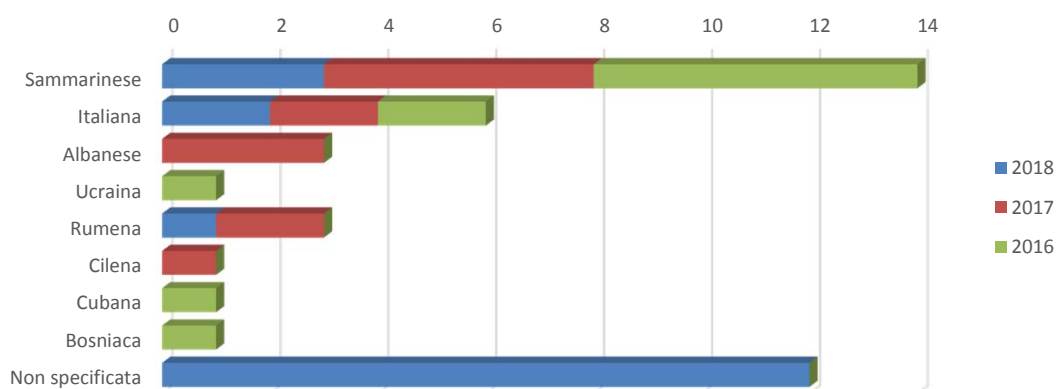
GENERE VITTIME AL 31/10/2018	2018	2017	2016	TOTALE
Donne	17	11	11	39
Minori	1	2	0	3
TOTALE	18	13	11	42

Genere vittime 2016-2018 al 31/10/2018



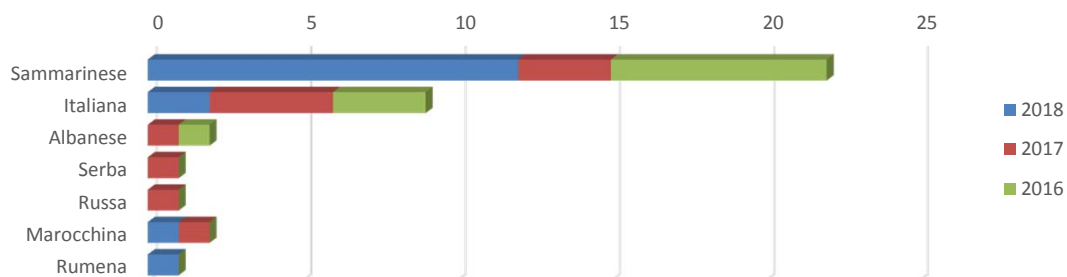
CITTADINANZA VITTIME AL 31/10/2018	2018	2017	2016	TOTALE
Sammarinese	3	5	6	14
Italiana	2	2	2	6
Albanese	0	3	0	3
Ucraina	0	0	1	1
Rumena	1	2	0	3
Cilena	0	1	0	1
Cubana	0	0	1	1
Bosniaca	0	0	1	1
Non specificata	12	0	0	12
TOTALE	18	13	11	42

Cittadinanza vittime 2016-2018 al 31/10/2018

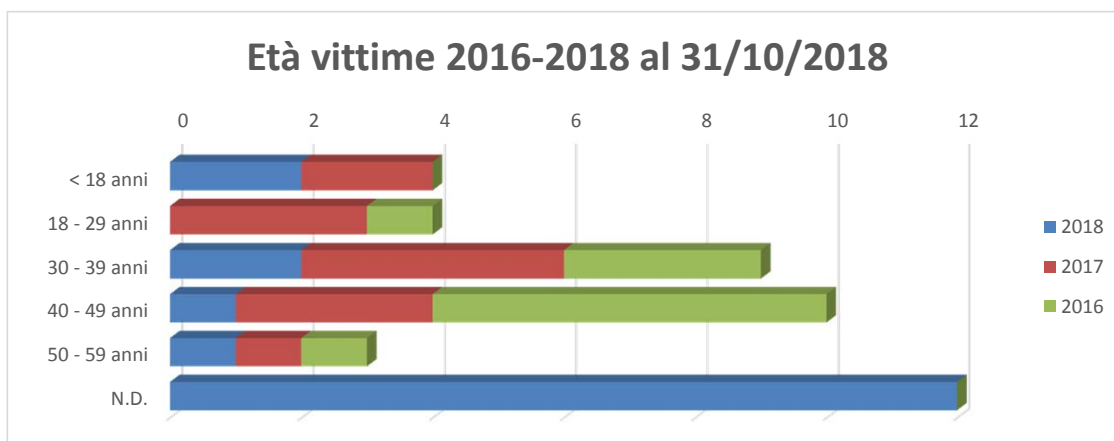


CITTADINANZA INDAGATI/IMPUTATI AL 31/10/2018	2018	2017	2016	TOTALE
Sammarinese	12	3	7	22
Italiana	2	4	3	9
Albanese	0	1	1	2
Serba	0	1	0	1
Russa	0	1	0	1
Marocchina	1	1	0	2
Rumena	1	0	0	1
TOTALE	16	11	11	38

Cittadinanza indagati/imputati 2016-2018 al 31/10/2018



ETA' VITTIME AL 31/10/2018	2018	2017	2016	TOTALE
< 18 anni	2	2	0	4
18 - 29 anni	0	3	1	4
30 - 39 anni	2	4	3	9
40 - 49 anni	1	3	6	10
50 - 59 anni	1	1	1	3
N.D.	12	0	0	12
TOTALE	18	13	11	42



RELAZIONE TRA INDAGATO/IMPUTATO E VITTIMA AL 31/10/2018	2018	2017	2016	TOTALE
Coniuge convivente	2	0	3	5
Convivente	1	1	0	2
Partner	1	1	0	2
Ex coniuge	1	0	2	3
Ex partner	1	1	4	6
Genitore	0	1	0	1
Conoscente	0	1	0	1
Relazione non specificata	10	6	2	18
TOTALE	16	11	11	38

