

# The Challenges of Citizenship in a Small European State

Name of Country

SAN MARINO

Name of Presenter/s

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**ERASMUS PLUS - 'Challenges to  
Democracy and Social Life'**

# Defining Citizenship

## SM historical Background: history has strongly influenced the concept of citizenship in the oldest Republic in the world

### 9<sup>th</sup> – 10<sup>th</sup> century

- **SM: born before the 10th century** thanks to small group of people (a few dozens) willing to create a social organization based on consanguinity and occupying an isolated territory;
- society devoted to Santo Marino, originally from Dalmatia;
- presence of a **monastery** that later becomes the beating heart of **both religious and economic life**;
- the small community shifts from theocracy to a more political structure by adopting its own constitution, still worshipping its Founder;
- **strong sense of independence and liberty.**

### 11<sup>th</sup> – 15<sup>th</sup> century

- **1296: first affirmation of independence** thanks to a cause of tributes requested by the authority of Montefeltro. 15 men belonging to the Sammarinese society appear before the judge and are asked **"QUID EST LIBERTAS?"** (What is liberty?). Their answer is **"NEMINI TENERI"** (Not depending on anyone), **hence not having any obligation towards civil or religious authorities.**
- SM starts building its identity as an **autonomous territorial entity**;
- **1300: Statuti (Charter). Development of the first elements of a State, population and territory.**

### 16<sup>th</sup> – 18<sup>th</sup> century

- SM survives attacks to its democracy thanks to its law and its tradition (to be noted: invasions by Cesare Borgia in 1500 and Giulio Alberoni in 1700)
- **SM gets recognition by Napoleon Bonaparte as a Sovereign State, confirmed in 1815 by the Congress of Vienna**, which establishes the geopolitical situation in Continental Europe
- SM remains out of the process of annexation of Italian territories into the French empire.

### 19<sup>th</sup> – 20<sup>th</sup> Century

- Transformation in the institutional situation and in international relations, where the motto of SM is **"known to us, unknown to others"**;
- **strong migration** to South America and – after WWII – to North America and Northern Europe; migration has shaped demographic traits as well as the **sense of identity of the country**;
- **SM starts to leave protectionism behind and starts international diplomacy**;
- **1922: SM becomes a member of the United Nations** and other European International Organisations.

### TODAY

- **SM is a third country**;
- the EU and SM have maintained diplomatic relations since 1983;
- 2015: start of negotiations for the Association Agreement with the EU

# Defining Citizenship

How is citizenship is defined in your country?

How does the general public / NGOs / the state ... perceive the basis and rights of citizenship? Is there agreement?



“citizen”: subject identifying the state; population

population: a collectivity of people linked by subordination to the State

SM citizen: has all civil rights and obligations and all political, social and economic freedoms established by the **Declaration of Citizens’ rights and Principles of the Sammarinese System (1974)**

citizenship acquisition, loss or re-acquisition, the rights and obligations related to it are **disciplined by law n. 114 of 30/11/2000** and its subsequent modifications and integrations. The State is free to establish the criteria on the basis of which it grants citizenship to people;

Sammarinese citizenship:  
**- by origin (jus sanguinis) or**  
**- by acquisition (naturalization)**

# Routes to Citizenship

Explain what are the main avenues for securing citizenship in your country.

Law *114 of 30/11/2000* and its subsequent modifications and integrations:

## a) citizenship by jus sanguinis (origin)

- children of parents both holding Sammarinese citizenship (regardless of the place of birth);
- children of a Sammarinese parent, under the condition that within 12 months of turning 18 they declare their will to hold the citizenship transmitted by said parent;
- children of a Sammarinese parent if the other parent is unknown or stateless (regardless of the place of birth);
- children adopted by a Sammarinese citizen;
- children born on the territory of the Republic if both parents are unknown or stateless.

➤ *The transmission of citizenship to women in particular conditions was introduced by law n. 32 of 27/03/1984.*

## b) citizenship by naturalization (acquisition)

- We consider to be citizens by naturalization those people who are granted Sammarinese citizenship by the Consiglio Grande e Generale (Parliament) according to criteria set by the law.
  - **1589**: first document attesting the concession of citizenship to “foreigners”

*Foreigners or stateless who have been residing in San Marino for at least 25 years can obtain naturalization. (Law 22/3/2016 n. 38).*

Different periods of time are contemplated in exceptional cases:

- at least 15 years of residence in case of **adoption** by a Sammarinese citizen;
- at least 15 years of residence if a foreigner or a stateless **is married** to a Sammarinese (without any pending procedures such as separation or annulment or dissolution);
- **minors**: the underage child of a naturalized parent can be granted naturalization;
- those who have been sentenced to prison or are facing pending procedures in San Marino or abroad cannot be granted citizenship.

# Sammarinese citizenship through time

## Before Law 27/3/1984 n. 32

For a long time before this law was approved, SM followed these principles:

1. a person is a citizen by birth if **the father is a citizen himself** (jus sanguinis – by origin)
2. a **foreign woman who has married a Sammarinese** citizen acquires the citizenship;
3. an adopted child becomes a citizen;
4. a foreigner who **gets naturalization** thanks to a decision of the Parliament.

➤ *Citizenship by origin: only through the father*

➤ *Before this law, if a woman was to marry a foreigner, she would lose her Sammarinese citizenship.*

## Law 27/3/1984 n.32

Art. 1 We consider to be Sammarinese citizens by origin:

1. **children of a Sammarinese father**, both in case of birth in the territory of the Republic or in another State;
2. **children of a Sammarinese mother**, if the father is unknown or stateless, regardless of the place of birth;
3. children adopted by a Sammarinese citizen;
4. children born in the territory of the Republic if both parents are unknown.

➤ *Re-acquisition of citizenship by a woman who, due to marriage to a foreigner, was asked to renounce to her Sammarinese citizenship. (Art. 6)*

## Law 30/11/2000 n. 114

Art. 1 We consider to be Sammarinese citizens by origin:

1. children of Sammarinese **mother and father**;
2. **children of a Sammarinese** father and non-Sammarinese mother, on the condition that they declare their will **to keep the citizenship** of the father within **12 months** of turning eighteen;
3. **children of a Sammarinese mother** and non-Sammarinese father, on the condition that they declare their will **to keep the citizenship** of the mother within **12 months** of turning eighteen;

*IDEM points 3-4 Law n. 32/84*

- *Introduction of the procedure in order to keep and choose the citizenship;*
- *Introduction of the procedure in order to keep the citizenship for Sammarinese citizens married to foreigners,*
- *Naturalization by “special law” every 10 years.*

## Law 17/6/2004 n. 84

Art. 1 We consider to be Sammarinese citizens by origin:

1. **children of Sammarinese mother and father**;
2. children of parents where **only one is a Sammarinese citizen**, on the condition that they declare to be willing to keep the father or mother’s citizenship within 12 months of turning eighteen;  
*IDEM points 4-5-6 Law 114/2000*

## Law 22/3/2016 n. 38

Modifications to art. 2

- *Naturalization without “special law.” Qualified majority voting (2/3 of the Consiglio Grande e Generale) is not necessary anymore.*

# Types of Citizenship

What categories of citizenship are possible in your country? Is dual/multiple citizenship allowed?

Citizenship by  
"jus sanguinis"

• **it can determine the case of double citizenship:**

- Emigration of Sammarinese people during the 19<sup>th</sup> and 20<sup>th</sup> centuries has created the phenomenon of double citizenship, which is a consequence of jus sanguinis.
- A Sammarinese citizen by origin and his/her descendants do not lose the original citizenship even if they acquire another one.

Citizenship by  
naturalization and  
marriage

- means swearing allegiance to the Republic
- and **renouncing to any other citizenship**
- (essential condition to acquire Sammarinese citizenship)

DIFFERENT  
CATEGORIES  
CITIZENSHIP  
??

Can citizenship be offered to foreigners in exchange for services rendered? Under what conditions?

➤ **SM protects the "citizen status": there is no other way to acquire Sammarinese citizenship rather than those indicated by the law.**

- The law allows foreigners, that is people with another citizenship, who are willing to move to SM to obtain the **RESIDENCE**:
  - **NO** right to active or passive electoral rights;
  - **YES** social security, fiscal and social rights (for Italian citizens: if they can demonstrate that they have lived outside of Italy for more than 183 days, by registering into the registry of residents abroad)



# Challenges to Citizenship (1)

Explain what are the main challenges that emerge as a consequence of the citizenship regime to your country.

## CHALLENGE 1

- Law 30/11/2000 n. 114

Children of a Sammarinese mother and non-Sammarinese father who, when the Law came into force, had already turned 18 more than 12 months earlier **could not benefit from the possibility of choosing to acquire the citizenship of the mother.**

- *Differences among siblings within the same household.*

## CHALLENGE 2

- Law 30/11/2000 n. 114

Formalities regarding the **act of keeping and choosing one's citizenship:** he/she who wants to declare his/her will to keep Sammarinese citizenship must do so before the Stato Civile or, if he/she resides abroad, before a Sammarinese diplomatic authority, who will then forward the request **to the Stato Civile within 12 months after said person turning 18.**

- *Differences among resident and non-resident citizens.*

## CHALLENGE 3

- Law 30/11/2000 n. 114

Citizenship by naturalization and marriage: it implies swearing allegiance to the Republic and **renouncing to any other citizenship** (necessary condition to acquire citizenship). **Citizens by origin do not have to renounce to any other citizenship**, as they can have double citizenship or multiple citizenships (frequent for Sammarinese citizens living abroad).

- *Differences between citizens by origin and citizens who have acquired Sammarinese citizenship later in life.*

## CHALLENGE 4

- **Vote for Sammarinese citizens residing abroad**

One third of Sammarinese citizens resides abroad. Today there are issues regarding the right to vote of citizens living abroad:

1. citizens residing in SM wonder if it is right or not for non-residents to vote;

2. risks in terms of electoral fraud

- *Differences among resident and non-resident citizens*

NB. Women and voting  
1964: active voting rights  
1974: passive voting rights

## CHALLENGE 5

- **European Citizenship**

**SM is a Third Country and does not have specific agreements with the EU**, which poses some limits to Sammarinese citizens in relation to the freedom of movement of people within the EU and Schengen area for non-touristic purposes. Difficulties in accessing the labor market, study and exchange programs, residence permits and medical assistance.

- *Differences among Sammarinese citizens and Italian/EU citizens and double citizens*

# Challenges to Citizenship (2)

How does being a SMALL STATE nuance / exacerbate / influence these main challenges that have emerged as a consequence of citizenship policies in your country.

**1. POLITICAL GROUPS**  
Majority and opposition

**WORLD OF WORK**  
(associations, unions)

**STUDENTS**

Issues are influenced by stakeholders according to social, political and economic goals.  
**main stakeholders regarding citizenship**



**COUNCIL OF SAMMARINESE CITIZENS  
RESIDING ABROAD**

(law 5/9/1997 n.98)

There are 25 Sammarinese communities.

There is a total of 7173 Sammarinese people that are part of these communities. The council Aims: - keeping a strong relationship between Sammarinese citizens abroad and their country of origin;  
- promoting the analysis of themes of interest of different

Communities around the world

**COMITES**

Committee of Italians Abroad  
Organisation aimed at safeguarding the rights, needs and expectations of Italian citizens that live abroad



# Responses to Citizenship

## **RESPONSE CHALLENGE 1**

### **Law proposition**

#### **“Integration to Law 30/11/2000 n. 114 (law on citizenship)**

discussed in Consiglio Grande e Generale, January 2019

Proposition of modification:

art. 3 Children of Sammarinese mother and non-Sammarinese father who, by the 30/11/2000 when law n. 114 came into force, had turned eighteen more than 12 months earlier, can be registered as Sammarinese citizens before the Stato Civile or before the diplomatic authority.

➤ *Initiative of the Council of Sammarinese citizens residing abroad*

## **RESPONSE CHALLENGE 2**

### **Law proposition**

#### **“Integration to Law 30/11/2000 n. 114 (law on citizenship)**

discussed in Consiglio Grande e Generale, January 2019

Proposition of modification:

art. 2 Children with a Sammarinese parent can obtain Sammarinese citizenship if they declare their will to keep said **citizenship within 7 years of turning 18.**

art. 6 The Official of Stato Civile **is authorized to re-register as citizens those who had been cancelled because they failed to declare their will to keep Sammarinese citizenship**

➤ *Initiative of the Council of Sammarinese citizens residing abroad*

## **RESPONSE CHALLENGE 3**

### **Law proposal presented in November 2018**

#### **Requests:**

- eliminate the rule of renouncing to one’s original citizenship as a prerequisite to obtain Sammarinese citizenship by naturalization.
- reduce bureaucratic times to grant Sammarinese citizenship from 25 years of residence to 15 years, and from 15 years to 10 for spouses of Sammarinese citizens;
- eliminate the loss of Sammarinese citizenship in case of acquirement of another citizenship

➤ *Initiative of COMITES*

## **RESPONSE CHALLENGE 4**

### **Citizens residing abroad should be granted the full right to vote.**

Until 1966 postal vote was possible, but it was abolished due to disagreements among political forces.

#### **Proposal:**

- telematic voting system. The government does not agree, as it is considered to be an unsafe method and does not fall among the current priorities to be discussed.
  - the overnment has proposed a double electoral college. The Council has nonetheless expressed disagreement to all discriminations between residents and non-residents.
- *Initiative of the Council of Sammarinese citizens residing abroad*

## **RESPONSE CHALLENGE 5**

### **Lack of European Citizenship**

In 2015 SM started negotiations with the European Commission aimed at a European integration and at an association agreement between EU and Monaco, Andorra and San Marino. In case of a positive outcome, the current disadvantages related to the freedom of movement of people would be eliminated.

➤ *Governmental initiative*

# Flashpoints

Describe a particular episode/s that occurred in your country and which highlight/s some of the challenges in addressing citizenship issues appropriately.

**Current discriminatory situation towards over-18 children:** children of a Sammarinese mother and a non-Sammarinese father, who, when law n.114/2000 came into force, had already turned 18 more than 12 months earlier, could not benefit from the possibility of choosing the citizenship of their mother and thus disparity was created within the same household (for example, among siblings).

**The compulsory declaration in order to keep or choose one's citizenship between the 18<sup>th</sup> and 19<sup>th</sup> year of age for children of a Sammarinese parent** has to happen in a too short window of time, both from an objective point of view (some citizens live abroad in cities quite far from Sammarinese embassies), and from a subjective point of view (the individual is not mature enough for such decision).

**The naturalized citizen must give up his/her original citizenship,** and one loses his/her Sammarinese citizenship in case he/she acquires the citizenship from another state.

**Sammarinese students cannot benefit from advantageous school fees in Europe like other European citizens,** so they have to pay higher fees. Moreover, they can't access European exchange programs.

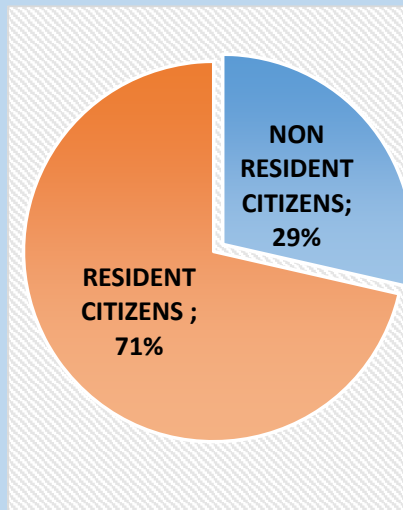
# Economy, crisis and citizenship

Are there scale/size, national specificities or uniqueness issues invoked and how are these framed in the context of citizenship?

- Uniqueness of the Republic in terms of citizens: migration during the first years of 1900s and after WWII: one third of citizens/electors live abroad

|                              |               |
|------------------------------|---------------|
| <b>NON-RESIDENT CITIZENS</b> | <b>13.363</b> |
| <b>RESIDENT CITIZENS</b>     | <b>33.419</b> |

| ELECTORS – 2016 elections |               |               |               |
|---------------------------|---------------|---------------|---------------|
|                           | Men           | Women         | Total         |
| <b>INTERNAL</b>           | <b>10.587</b> | <b>11.819</b> | <b>22.406</b> |
| <b>LIVING ABROAD</b>      | <b>4.592</b>  | <b>6.987</b>  | <b>11.579</b> |
| <b>TOTAL</b>              | <b>15.179</b> | <b>18.806</b> | <b>33.985</b> |



Dati al 31-12-2018 Dati bollettino statistica- Ufficio Programmazione Economica e Statistica RSM

The global economic crisis since 2008 and the austerity policies Has there been any debate about the schemes of investors acquiring 'fast track' access to citizenship or 'sale of citizenship' schemes?

New ways to access SM are linked to the concept of RESIDENCE, never to CITIZENSHIP

**Elective residence:** for foreigners who want to live in SM and has a financial or estate investment

**Residence for economic reasons:** granted to people who own at least 51% of a share capital and if such conditions persist

**Residence for cross-border workers:** if they have been linked to SM by a permanent contract since at least 15 years. If there are more than 40 requests per year, there is a draw (decree 11/12/2018 n. 154)

# Conclusion: Prospects

- Looking forward, what can one expect of citizenship policies and practices in your country?

