



# REPUBLIC OF SAN MARINO

## **DELEGATED DECREE no .59 of 29 April 2015**

*(Ratifying Delegated Decree no. 13 of 11 February 2015)*

### **We the Captains Regent of the Most Serene Republic of San Marino**

*Having regard to Delegated Decree no. 13 of 11 February 2015 – “Code of Conduct for members of the Police Corps” - which has been promulgated:*

*Having regard to Article 2, paragraph 6 of Law no. 141 of 5 September 2014;*

*Having regard to Congress of State Decision no. 8, adopted during its sitting of 27 January 2015;*

*Having regard to the amendments to the above-mentioned Delegated Decree, which were introduced at the time of its ratification by the Great and General Council in its sitting of 27 April 2015;*

*Having regard to Decision no. 24 of the Great and General Council adopted on 27 April 2015;*

*Having regard to Article 5, paragraph 3 of Constitutional Law no. 185/2005 and to Articles 8 and 10, paragraph 2 of Qualified Law no. 186/2005;*

*Hereby promulgate and order the publication of the final text of Delegated Decree no. 13 of 11 February 2015, as modified following the amendments approved by the Great and General Council when ratifying it:*

## **CODE OF CONDUCT FOR MEMBERS OF THE POLICE CORPS**

### **Chapter I General rules**

#### **Art. 1 (Scope)**

1. This Code shall apply to members of the Gendarmerie Corps, the Uniformed Unit of the Fortress Guard, the Civil Police Corps and the National Central Bureau of Interpol for the purposes of implementing the delegation contained in Article 2, paragraph 6 of Law no. 141 of 5 September 2014. The above Corps shall also be indicated hereunder with the term Police.

#### **Art. 2 (Objectives of the Police)**

1. The main purposes of the Police shall be:
  - a) maintaining public peace and order and enforcing law in society;

- b) protecting and enforcing the rights and fundamental freedoms of individuals, which are set forth in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- c) preventing, investigating and suppressing the commission of crimes;
- d) providing assistance and services to the population;
- e) carrying out the additional tasks provided for in the regulations in force.

## **Chapter II**

### **Requirements and training**

#### **Art. 3**

*(Civil and moral integrity requirements)*

1. Members of the Police shall meet the following civil and moral integrity requirements:
  - a) not having been finally convicted of a criminal offence, for which a punishment entailing restriction of personal liberty or disqualification from public offices of not less than one year has been imposed;
  - b) not having been finally convicted of a criminal offence, for which a punishment entailing restriction of personal liberty or disqualification from public offices of not less than two years has been imposed;
  - c) enjoying civil and political rights;
  - d) behaving irreproachably in all circumstances, avoiding, both in the performance of their duties and in their private life, to find themselves in situations that may be perceived by the community as improper or inappropriate.
2. The continued fulfilment of the requirements referred to in paragraph 1 shall be subject to periodic checks in the manner defined in the regulations of the individual Corps.

#### **Art. 4**

*(Qualification and recruitment in the Police)*

1. The recruitment of Police personnel shall be based exclusively on objective and non-discriminatory criteria that shall take into account the personal qualifications and experience of each candidate, which shall be appropriate to the objectives of the Police as defined in Article 2 of this Delegated Decree.
2. At the time of recruitment and in the performance of their duties, members of the Police shall be able to demonstrate judgement capacity, open-mindedness, maturity, impartiality and ability to communicate, and shall be psychophysically fit for their function. In the case of members of the Police who are entrusted with management or executive functions, command and organisational capacity shall also be required. Members of the Police shall also have a good understanding of social and cultural issues.
3. The Corps' regulations lay down the rules of discipline and the measures that may be taken by the competent bodies, including precautionary measures. These regulations lay down, in particular:
  - a) recruitment criteria ensuring equal opportunities in accessing the Corps, so that their composition reflects the society they serve;
  - b) the qualifications required, which shall in any case be adequate and consistent with the specific activities to which members of the Police are assigned and with the professional skills required;
  - c) the procedures and criteria for periodic checks on members of the Police to verify that they continue to meet the requirements related to psychophysical fitness, aptitude and professional skills;
  - d) the procedures for periodic checks on members of the Police to verify that they continue to meet the integrity requirements for accessing the Corps, as defined in Article 3;
  - e) career progression by selection and assessment through competitions or based on qualifications. Career progression shall always take place by ensuring the assessment of the professional skills, suitability and integrity of the interested person according to objective and predetermined criteria.

**Art. 5**  
*(Training of the Police)*

1. Vocational training and refresher courses shall be a right and a duty of members of the Corps, who are required to proactively attend vocational training and/or refresher courses organised by the Commands of each Corps.
2. Police training, which shall be based on the fundamental values of democracy, the rule of law and the protection of human rights, shall be developed in accordance with the objectives of the Police.
3. General Police training shall be as open as possible to society.
4. The initial general training to which candidates are subject in the preparatory phase of admission to the profession shall include both on-the-job training and specialist training.
5. The training of members of the Police at all levels shall periodically include practical training on the use of force and the relevant limits, based on human rights principles, in particular in the light of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the Court.
6. In accordance with the general guidelines adopted by the Department Council of the Police Department, the Commands of the Police Corps shall organise training courses, in particular for the following:
  - a) management and executive functions aimed at professional development and the acquisition of additional skills;
  - b) retraining of members of the Corps, who carry out criminal investigations by delegation of the judicial authority. These courses shall be specifically aimed at:
    - 1) the acquisition and continuous updating of the skills necessary for the proper performance of investigation tasks, in particular in relation to the procedures for obtaining evidence and drawing up periodic reports to be submitted to the investigating judge and to hierarchical superiors;
    - 2) the acquisition of high professional skills and specific expertise in certain areas of investigation that require particularly complex investigative techniques.
7. Police training shall take full account of the need to counter and combat racism and xenophobia and shall effectively fight against any racist, xenophobic or gender-based discrimination within the Police organisation.

**Chapter III**  
**Provisions for Police action**

**Art. 6**  
*(Provisions for Police action)*

1. Members of the Police shall be obliged to carry out their duties fairly and to avoid discrimination of all kinds on grounds of age, gender, race, political opinions and religious beliefs, in compliance with the provisions of Article 4 of Law no. 141/2014.
2. In carrying out their duties, members of the Police shall always take into account the fundamental rights of everyone, such as freedom of thought, conscience, religion, expression, movement, assembly and respect for one's property.
3. Members of the Police shall act with integrity and respect towards citizens and with special consideration for the situation of individuals belonging to particularly vulnerable groups.

4. Police members shall, as a rule, be able to show their professional membership of one of the Corps and their identity during an intervention.
5. Members of the Police shall comply with the principles of legality, utmost fairness, impartiality, confidentiality, courtesy and a sense of responsibility when fulfilling their duties, in particular to ensure respect for the rights and fundamental freedoms of individuals enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms. In this regard, members of the Police shall comply with the provisions of Articles 14, 15, 16, 17, 19, 21 and 22 of Law no. 141/2014.
6. When performing their duties by delegation of the judicial authority, members of the Police shall be required to comply with and apply criminal procedural rules.

#### **Art. 7**

##### *(Preventing and combating corruption)*

1. Members of the Police shall prevent risk and fight all forms of corruption within their Corps by performing their duties in an honest and impartial manner, avoiding that their personal interests conflict with their role within the Corps and, where appropriate, discouraging their colleagues from engaging in corrupt conduct. All members of the Corps shall inform their hierarchical superior of any cases of corruption within the Corps to which they belong.
2. Organisational arrangements based on criteria of transparency and systematic control, such as to prevent and combat corruption, shall be observed in the activity of the Corps at all levels. To this end, within each Corps:
  - a) methodologies shall be promoted and defined for the prevention of corruption in accordance with the relevant national and international guidelines, programmes and legislation in force;
  - b) criteria, procedures and other organisational measures to prevent all forms of corruption shall be defined.

#### **Art. 8**

##### *(Conflicts of interest and incompatibilities)*

1. In order to avoid conflicts of interest, the provisions of Articles 8, 9 and 10 of Law no. 141/2014 shall be observed. Members of the Corps shall have a duty to report to their hierarchical superior any conflict of interest, in which they consider another member of the Corps is involved.
2. With regard to incompatibilities, the provisions of Article 11 of Law no. 141/2014 and of Article 70 of Law no. 168 of 21 December 2009 shall apply to members of the Police. In particular, members of the Police shall not have shareholdings in partnerships and joint-stock companies, with the exception of shareholdings in companies listed on the stock exchange or in companies carrying out the reserved activities referred to in Article 1, letter g) of Law no. 165 of 17 November 2005 and subsequent amendments, provided that such shareholdings are exclusively for saving purposes.

#### **Art. 9**

##### *(Reporting)*

1. In order to prevent and combat all forms of corruption, crime and unlawful activities, members of the Police shall be required to fulfil the same reporting obligations as those laid down for public officials in Article 7 of Law no. 141/2014; the complaint or report shall be addressed in writing or in the further specific forms prescribed by the rules in force to the hierarchical superior or judicial authority.

2. The Police shall take appropriate measures to ensure the confidentiality of the identity of the individual who made the report or filed the complaint. The identity of the individual who filed a complaint shall only be disclosed when the judicial authority deems it indispensable for the purposes of establishing the offences being prosecuted.

#### **Art. 10**

*(Respect for Institutions and political neutrality)*

1. Members of the Police shall have a duty to respect the Institutions and to faithfully serve the Republic and the authorities of the State established in accordance with the law.
2. Members of the Police shall be required to act impartially and to comply with the directives, decisions or legitimate actions of public authorities, while fully respecting the autonomy of the Police.
3. Members of the Police shall not hold political offices or engage in party activities.

#### **Art. 11**

*(Final provisions)*

1. If members of the Police have any doubts as to the procedures they have to implement for the application of the provisions contained in this Code of Conduct, they shall refer the matter to their hierarchical superior.
2. The Department Council of the Police Department, including the Director of the National Central Bureau of Interpol, shall disseminate this Delegated Decree and shall issue instructions for its application.
3. The provisions of this Delegated Decree shall provide for the duties of members of the Police. Without prejudice to the possible application of criminal rules, failure to comply with such provisions shall entail the application of sanctions in accordance with the disciplinary rules in force.
4. Members of the Police shall be liable for damages caused to the State under the same terms provided for civil servants in Article 27 of Law no. 41 of 22 December 1972.

#### **Article 12**

*(Transitional provisions)*

1. Police Corps and competent public authorities shall be required to align with the provisions of this Code of Conduct within the current year.

Done at Our Residence, on 29 April 2015/1714 since the Foundation of the Republic.

**THE CAPTAINS REGENT**

*Andrea Belluzzi – Roberto Venturini*

**THE MINISTER OF INTERNAL AFFAIRS**

*Gian Carlo Venturini*