



# REPUBLIC OF SAN MARINO

CONSTITUTIONAL LAW no. 183 of 15 December 2005

## CONSTITUTIONAL LAW ON THE CONGRESS OF STATE

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

*Hereby promulgate and order the publication of the following Constitutional Law,  
approved by the Great and General Council during its sitting of 15 December 2005.*

### TITLE I CONGRESS OF STATE

#### **Art. 1** *(Executive power)*

1. The Congress of State shall be vested with the power to govern the Republic in accordance with article 3 paragraphs 11 and 12 of Law no. 59 of 8 July 1974, as amended by article 3 of Law no. 36 of 26 February 2002, and shall exercise this power collectively in accordance with the provisions of this Constitutional Law. It shall be composed of the Ministers.
2. The Congress of State shall determine the general policy of the Government and, for the purpose of implementing it, it shall determine the general direction of administrative action.
3. The Congress of State shall be collectively accountable before the Great and General Council for the implementation of the Government programme, while respecting the policy established in the relationship of mutual trust with the Great and General Council.

#### **Art. 2** *(Functions of the Congress of State)*

1. For the purpose of implementing the Government programme approved by the Great and General Council and in full compliance with the political guidance set by it, the Congress of State:
  - a) shall collectively implement international policy guidelines and drafts of international treaties and agreements relating to matters of general international policy and relevant to the security of the State, without prejudice to the powers of the Great and General Council;

- b) shall establish general administrative policies, by identifying general objectives and programmes and by issuing the relevant general directives of the Public Administration in compliance with the autonomy provided to it by law;
  - c) shall settle conflicts of powers among the Ministers;
  - d) shall be entrusted with the legislative initiative by drafting the laws to be submitted to the Great and General Council for approval;
  - e) shall decide on any other matter relating to the implementation of the government programme, unless otherwise provided for by law
2. In addition to the functions referred to in the preceding paragraph, the Congress of State:
- a) shall adopt the Delegated Decrees provided for in Article 3bis, paragraph 5, of the Declaration on the Citizens' Rights;
  - b) in case of need and urgency, shall adopt decrees having force of law, which shall be submitted to the Great and General Council for ratification within three months, under pain of nullity;
  - c) shall submit to the Great and General Council the annual and pluriannual budget law, as well as the relevant financial statements of the State and of Entities of the Overall Public Sector, accompanied by the necessary reports;
  - d) shall control the implementation of expenditure plans and programmes and any single measure to check whether they are consistent with approved budgets and the directives issued pursuant to point c) of the preceding paragraph;
  - e) shall order the immediate implementation, under its own responsibility, of acts and measures declared urgent and non-deferrable, subject to prior control in accordance with the provisions in force;
  - f) shall suspend the adoption of acts by the competent Ministers when they relate to political or administrative matters on which a collective decision is appropriate;
  - g) shall propose administrative acts falling within the competence of the Great and General Council
  - h) shall adopt regulations laying down the forms and modalities for the implementation of laws, as well as the discipline governing the organisation and functioning of public offices, in accordance with legislative provisions;
  - i) shall exercise any other function provided for by law.

**Art. 3**  
(Duration)

1. The Congress of State shall remain in office for the entire legislature, unless the same Congress resigns.
2. The Congress of State shall resign before the Captains Regent who, except in the cases referred to in paragraphs 3 and 4 of this Article, shall convene as soon as possible a special sitting of the Great and General Council for the relevant debate.
3. The Congress of State shall resign in any case before the Captains Regent after having convened the first sitting of the legislature of the Great and General Council. In such case, there shall be no debate in compliance with paragraph 2 of this Article.
4. If a motion of no confidence is passed, the Congress of State shall be required to resign.
5. If a motion of no confidence against an individual Minister is passed, such Minister shall be required to resign. A motion of no confidence against an individual Minister shall not require the resignation of the entire Congress.
6. The resigning Congress of State shall remain in office to deal with ordinary matters until a new Congress is appointed.

## **TITLE II MINISTERS**

### **Art. 4** *(Collective functions)*

1. The Ministers shall take part in the meetings of the Congress of State and jointly contribute to the adoption of its decisions in order to establish the Government's general policies, while respecting the policy of the Great and General Council.
2. All Ministers shall be required to collaborate with their colleagues whenever the issues falling within their competence are relevant to other Ministers and whenever this is requested by a colleague or by the Congress of State.
3. When an issue falling within the field of competence of a Minister also concerns other Ministries, the interested Minister shall be required to submit this issue to the Congress of State in order to adopt a common decision.

### **Art. 5** *(Functions of the Ministers)*

1. Each Minister shall represent the department which he or she has been appointed to govern and for which is individually accountable before the Great and General Council in relation to his or her powers.
2. The Ministers shall have the political and administrative responsibility for the Ministries falling within their competence and implement the general policies established in the Government programme. They shall also apply general administrative decisions adopted by the Congress of State, in the respect for laws, regulations and other rules in force in the Republic of San Marino.
3. Each Minister, for the purposes of implementing the general political and administrative policy of the Government and in compliance with the laws in force:
  - a) shall exercise political direction and establish the administrative policy of the relevant Ministries in accordance with paragraph 1;
  - b) shall supervise and oversee the functioning of the administrative structures and sectors of the Ministry for which he or she is responsible by issuing the relevant provisions and directives, in order to improve the organization and ensure the proper functioning of offices and services.
  - c) shall submit draft laws and resolutions concerning its own areas of competence to the Congress of State;
  - d) shall adopt the administrative acts and measures established by law and supervise the correct adoption of the measures issued by the authorities in the administrative field for which he or she is responsible;
  - e) shall make expenditure commitments within the limits of its budgetary allocation, complying with the rules governing the State's General Accounting;
  - f) shall control expenditure plans and programmes and any single measure proposed or carried out, following the instructions given by the General Directors or administrative managers of the entities, offices and services of the Ministry;
  - g) shall exercise the other functions established by law and perform the duties assigned to him or her by the Congress of State.

**Art. 6**

*(Relations between the Congress of State and the Ministers)*

1. When the activity or the acts of a Minister are deemed to violate the principles contained in the second paragraph of Article 5, each Minister shall promote the joint review thereof.

**Art. 7**

*(Suspension of parliamentary mandate)*

1. A member of the Council elected as Minister shall be replaced within the Great and General Council by the first of the non-elected persons in the list to which he/she belongs, for the duration of such mandate.

**TITLE III  
LIABILITY**

**RELATIONSHIP OF MUTUAL TRUST WITH THE GREAT AND  
GENERAL COUNCIL**

**Art. 8**

*(Liability)*

1. The members of the Congress of State shall be personally responsible for the acts pertaining to their respective Ministry and shall be jointly liable, before the Great and General Council, for the exercise of powers and competences envisaged by the law.

2. The members of the Congress of State shall be in any case civilly and administratively liable, in case of wilful or gross negligence, for their joint or individual actions or omissions, which are not exclusively of a political nature. Moreover, the criminal liability of each Minister shall apply, which shall be verified through ordinary judicial bodies.

**Art. 9**

*(Motion of no confidence)*

1. The motion of no-confidence against the Congress of State or against an individual Minister shall be submitted by at least one-fifth of the members of the Great and General Council, through a written reasoned measure, to the Captains Regent and shall be discussed not earlier than three days and not later than seven days from the date of its filing. The Captains Regent shall promptly convene the Bureau of the Great and General Council in order to convene the Parliamentary sitting to discuss the motion.

2. At the end of the debate the motion of no-confidence shall be voted by open ballot by roll call and be approved by an absolute majority of the members of the Great and General Council.

3. A motion of no-confidence against the Congress of State or an individual Minister shall not be submitted until six months have elapsed since his or her appointment.

4. A motion of no confidence, whether against the Congress of State or an individual Minister, shall not be resubmitted on the same grounds as a rejected motion of no confidence.

5. The Parliamentary Regulation shall govern the manner in which a motion of no confidence shall be presented and debated.

**TITLE IV**  
**FINAL PROVISIONS**

**Art. 10**  
*(Repeal)*

1. Articles 1, 3, 11, 12 and 13 of Law no. 97 of 5 September 1997 and all other rules in contrast with this law shall be repealed.

**Art. 12**  
*(Entry into force)*

1. This Law shall enter into force on the fifteenth day following that of its legal publication.
2. In the event that this Law is subject to a confirmative referendum pursuant to article 3 bis, paragraph 1 of the Declaration on the Citizens' Rights, it shall enter into force on the fifteenth day following the proclamation of the positive result of the referendum.
3. However, this law shall apply from the 26th Legislature.

*Done at Our Residence, on 29 December 2005/1705 since the Foundation of the Republic.*

THE CAPTAINS REGENT  
*Claudio Muccioli – Antonello Bacciocchi*

For the MINISTER OF  
INTERNAL AFFAIRS  
*Minister Pier Marino Mularoni*