



REPUBLIC OF SAN MARINO

REGULATION no. 11 of 29 November 2010

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

Having regard to Congress of State Decision no. 29, adopted during its sitting of 22 November 2010;

Having regard to Article 5, paragraph 5 of Constitutional Law no. 185/2005 and to Article 13 of Qualified Law no. 186/2005;

Promulgate and order the publication of the following Regulation:

CONGRESS OF STATE REGULATION

TITLE I PURPOSES OF THE REGULATION

Art. 1
(Purposes of the Regulation)

1. For the purpose of implementing Article 8 of Qualified Law no. 184 of 15 December 2005, this Regulation shall govern the meetings and functioning of the Congress of State, as well as the procedures to draw, approve and implement the acts falling within its fields of competence.

TITLE II CONGRESS OF STATE MEETINGS

Art. 2
(Congress of State meetings)

1. The meetings of the Congress of State shall normally be held in a hall of the Government Building and be convened by the Captains Regent. The meetings of the Congress of State may be convened by only one of the Captains Regent in the event of the absence or impediment of the other.

2. The agenda shall be set by the Captains Regent on the basis of proposals from the Ministers.

3. The meetings shall be valid if half the members of the Congress of State are present. A meeting shall be deemed void if, thirty minutes after the time indicated in the notice of the meeting, a quorum is not present in the meeting room.

4. The Captains Regent shall be responsible for coordinating the works of the meetings of the Congress of State. In the event of the absence or impediment of one of the two Captains Regent, the other may coordinate the meeting.

5. The meetings of the Congress of State shall be opened and closed by the Captains Regent.

6. At the beginning of the meeting, the Minister of Internal Affairs shall give an account of the decisions adopted during the previous meeting and those withdrawn, in accordance with this Regulation, since the last meeting.

The Congress of State shall agree on the modalities in which this task should be carried out in the most appropriate way for the organisation of its works. A list may also be drawn up and be transmitted to the members of the Government in order to allow them to make observations.

Art. 3

(Convening procedures)

1. The Congress of State shall meet on an ordinary, extraordinary or emergency basis.
2. The ordinary sittings of the Congress of State shall take place once a week, normally on Monday. The meetings of the Congress of State shall be convened by the Executive Secretariat of the Congress of State with a specific notice indicating the date, time and place of the meeting, as well as the items on the agenda. The notice of the meeting shall be sent to the members of the Congress of State - at their respective locations - normally on Friday or by the day before the meeting.
3. The Captains Regent may convene an extraordinary meeting of the Congress of State for examining matters of particular interest requiring a specific debate or for the needs of the Captains Regent or the Congress of State.
4. For the examination of matters for which the debate cannot be deferred, the Captains Regent may convene an urgent (even in the following hours) Congress of State meeting, even without notice.

Art. 4

(Absence of the rapporteur or proposing Minister)

1. In the absence of the proposing or rapporteur member of the Congress of State, the examination of the proposals or of the matters relating thereto may be deferred, subject to prior delegation to another Minister to report on his or her behalf.

Art. 5

(Abstention from participation in a meeting)

1. The Ministers shall be required to abstain when the discussions concern matters in which they have a direct personal interest or which concern their spouse, blood relatives up to the third degree and relatives by affinity.

Art. 6

(Participation of external members)

1. Directors and Officials of the Public Administration as well as consultants and/or professionals from outside the Public Administration may be invited to the meetings of the Congress of State to assist the Ministers and to provide clarifications on particular issues.

Art. 7

(Minutes of the meetings)

1. Minutes of each meeting of the Congress of State shall be drawn up on the spot.
2. Secretariat functions shall be performed by the Minister of Internal Affairs, who normally takes care of drawing up the minutes of the meetings.
3. In case of absence or impediment of the Minister of Internal Affairs, he or she shall be replaced by another Minister specifically appointed by the Congress of State.

4. The Minister of Internal Affairs, with the favourable opinion of the Congress of State, may designate an official to draw up the minutes of the meeting.
5. The minutes shall indicate the date, start and end times of the meeting, members present and absent, the items discussed by the Congress of State, a brief account of the decisions and communications and an indication of the people who spoke pursuant to the preceding Article.
6. The minutes may be handwritten or written on a computer. In the latter case, the minutes shall be printed on paper, and the sheets shall be numbered and signed by the Minister of Internal Affairs, collected in a special register and subsequently bound in volumes.

Art. 8

(Request for the inclusion of items in the agenda)

1. The items to be included in the Agenda shall normally be indicated by the Ministers at a previous meeting, but it shall be possible to request, even at a later date, the inclusion of a specific item from the Captains Regent or the Minister of Internal Affairs.
2. The documents relating to the proposed items to be included in the agenda shall be submitted by the competent Ministries to the Executive Secretariat of the Congress of State no later than the day before the notice of the meeting is sent.

Art. 9

(Storage and publicity of the minutes of the meetings)

1. The minutes of the meetings of the Congress of State referred to in Article 7 above shall be kept by the Minister of Internal Affairs for the ongoing mandate and at the end of the mandate he or she shall hand them over to the Director of the Executive Secretariat who shall undertake their safekeeping, collected in volumes.
2. The minutes of the Congress of State shall be confidential documents. They may be examined at any time at the Ministry of Internal Affairs by the Captains Regent in office and the Members of the Congress of State in office.
3. Subject to the prior authorisation of the Minister of Internal Affairs, parties external to the Congress of State who have spoken during the meetings pursuant to Article 6 may also examine the minutes, limited to the items included in the agenda of the meeting to which the individual minutes refer and in which these parties were present.
4. The former Captains Regent and former Ministers may at any time examine the minutes of the meetings held during their mandate at the Executive Secretariat of the Congress of State upon request to the Director of the Secretariat.
5. The Congress of State may authorise other persons to examine the minutes in relation to individual items included in the agenda.

**TITLE III
DECISIONS AND
REGULATORY ACTS**

Art. 10

(Content of the decisions)

1. The decisions shall contain all useful and necessary elements relating to their nature and purpose.
2. The decisions shall contain in their preamble an indication of the rules in implementation of which these are enacted and other rules relating to their purpose, as well as an indication of the factual circumstances relevant to their enactment.

3. When a measure is enacted following proceedings, the preamble shall contain a reference to all intermediate acts.
4. For reasons of practicality and economy of management, decisions should not contain technical data or technical regulations in the text, which shall preferably be contained in attached documents.

Art. 11

(Accompanying documents)

1. If the decision refers to a document (usually mentioned in the preamble to the decision and introduced by the formula "having regard", "filed with the records" or "attached"), the proposing Ministry shall be required to send a copy of that document, by email, together with the proposed decision to which it refers, to the Executive Secretariat of the Congress of State.
2. The Executive Secretariat of the Congress of State shall be required to keep complete records of all proposed decisions received.
3. If the proposed decisions lack accompanying documents, the Ministries shall ensure that they are transmitted to the Executive Secretariat of the Congress of State by e-mail as soon as possible.
4. When transmitting the documents, the proposing Ministries shall specify whether the documents referred to in the decision are to be "filed with the records" (if they are not an integral part of the decision) or "attached" (if they are an integral part of the decision).

Art. 12

(Annexes to the decisions)

1. If the decisions contain annexes, these shall form an integral part thereof and, as such, shall be perfectly readable and numbered.
2. The annexes shall be referred to in the text of the decision, which shall also indicate the elements necessary for their precise identification.
3. It shall not be required to attach acts and documents, which, although relating to the preparatory stage of the decision, are not part of its enactment. These documents, filed with the records, shall in any case be kept at the Executive Secretariat of the Congress of State.

Art. 13

(Decisions not included in the agenda)

1. The proposed decisions to be adopted shall appear on the list attached to the notice of the meeting.
2. The presentation of decisions not included in the agenda shall be allowed in extraordinary and urgent cases, recognised as such by the Congress.
3. The text of the proposed decision and the relevant documents shall be filed during the meeting.
4. The minutes shall record the adoption of such decisions in the list of agenda items of the proposing Ministry.
5. Adopted decisions which are not included in the agenda shall be sent to the Executive Secretariat of the Congress of State in the same manner as the decisions included in the Agenda and shall contain all the requirements for their validity referred to in this Regulation.

Art. 14

(Confidential decisions)

1. The Congress of State may declare a decision confidential, based on a discretionary assessment. Under Article 15 of Law no. 184/2005, decisions on state security and international relations may be declared confidential.

2. In the case referred to in the preceding paragraph, the Congress of State shall expressly declare confidentiality with the wording "confidential decision pursuant to Article 15 of Law no. 184/2005".
3. Decisions expressly declared confidential by the Congress of State shall be kept in a special archive at the Executive Secretariat of the Congress of State by its Executive Officer and may be consulted only by the Captains Regent and the Ministers in office, who shall be required to maintain confidentiality.

Art. 15
(Draft Laws)

1. Bills shall be drafted by the competent Ministries and submitted by the Ministers to the Congress of State, which, in its decision, shall mandate the proposing Minister to carry out all necessary procedures. The text of the bill and of the accompanying report shall be attached to the minutes of the sitting.
2. The Congress of State may ratify the deposit of a bill already sent to the parliamentary procedure for urgency reasons and approve the same bill in the sitting subsequent to its deposit with the State Institutional Secretariat

Art. 16
(Decrees)

1. Decisions adopted by the Congress of State for the promulgation of Delegated Decrees under Art. 11 of Qualified Law no. 184/2005 shall indicate in the preamble the delegating law or the relevant reference legislation.
2. Decisions adopted by the Congress of State for the promulgation of Decree-Laws under Art. 12 of Qualified Law no. 184/2005 shall indicate in the preamble the extraordinary circumstances determining the need and urgency of their adoption.
3. In order to be adopted by the Congress of State the texts of the Delegated Decrees and Decree-Laws shall be attached to the decisions.

Art. 17
*(Secondary legislation acts:
Regulations, Orders)*

1. Secondary legislation acts shall govern areas specified by laws and take the form of Regulations and Ordinances.
2. Decisions adopted by the Congress of State in case of Regulations under Art. 13 of Qualified Law no. 184/2005 shall indicate in the preamble the relevant reference legislation.
3. In order to be adopted by the Congress of State the texts of the Regulations shall be attached to the decision.
4. Decisions adopted by the Congress of State in case of Ordinances shall indicate in the preamble the relevant reference legislation.

Art. 18
(Withdrawal of decisions)

1. The Ministries may withdraw the decisions falling within their competence adopted by the Congress of State, before their signing, by written notice addressed to the Executive Secretariat of the Congress of State, containing the reasons for the withdrawal.

TITLE IV
INVALIDITY AND IRREGULARITIES OF REGULATORY ACTS AND DECISIONS

Art. 19

(Modifications and corrigenda to regulatory acts)

1. Through the State Institutional Secretariat, the Minister of Internal Affairs shall correct the material errors in the Delegated Decrees, the Decree-Laws and the Regulations. The corrigenda shall be publicly displayed and be published in the Official Bulletin.
2. A corrigendum shall only be admitted in the event of a material error in the drafting of the final text of the decree, recognisable (at first sight) by collation with the text of the decision or of the accompanying documents.
3. In cases where the material error found is not of the type referred to in the preceding paragraph, the competent Ministry shall notify the error to the Congress of State, which shall take note of it and authorise the issuance of a corrigendum by the Minister of Internal Affairs.
4. In the case of a substantial error, the regulatory act containing the error may be amended either by ratification by the Great and General Council or by a subsequent act of the same kind adopted by the Congress of State.

Art. 20

(Corrigenda to the decision in case of material errors)

1. The Director of the Executive Secretariat of the Congress of State shall correct the material errors exclusively contained in the drafting of the final text of the decision, which are clearly recognisable or resulting from collation with the text of the decision passed by the Congress of State or from collation with the documents accompanying the decision. In such cases, the Director of the Executive Secretariat of the Congress of State shall correct the decision by means of a corrigendum, i.e. by drafting a subsequent document correcting the errors in the first document, which shall be attached to the decision. In the case of an act having an external impact, the corrigendum shall be made within thirty days from the date of adoption of the decision or within the shorter term provided for the possible request referred to in Article 18 of Law no. 68/1989.
2. The correction shall be notified to the parties named in the abstract from the minutes. The copy of the decision shall be issued and published on the website as corrected pursuant to this Article.
3. The Executive Secretariat of the Congress of State shall keep a register of the corrigenda.

Art. 21

(Correction to the decision)

1. In the case of a substantial or a material error other than that referred to in the preceding article, the competent Minister shall propose to the Congress of State the correction of the decision by means of a new one, which shall be included in the agenda, in accordance with the procedures laid down in this Regulation with the aim of correcting, amending, replacing part of the act or integrating additional elements.

Art. 22

(Revocation of decisions)

1. The Congress of State may revoke a decision by adopting a subsequent decision revoking the previous one.
With revocation, the Congress of State shall express the need to terminate the effectiveness of a decision on the basis of a renewed assessment of the interests involved.

Art. 23
(Suspension)

1. The Congress of State may suspend a decision by adopting a subsequent decision. Suspension shall not cancel the decision, nor terminate its validity and effectiveness. It shall cancel *ex nunc*, i.e. not retroactively, and temporarily, the possibility of leading to a further implementation of the act; it shall apply when the effects of the decision are suspended and then resumed, possibly at a later date. The effect of the suspension shall cease at the expiry of the relevant time-limit, if applicable, or until the occurrence of the event, upon which the duration is conditioned.

Art. 24
(Ratification of acts adopted by another authority)

1. Ratification shall occur when the Congress of State adopts an act legitimately but provisionally adopted by one or more Ministers or by another body.

TITLE V
ENFORCEABILITY OF DECISIONS

Art. 25
(Enforceability of decisions subject to legitimacy controls)

1. The preventive legitimacy control shall be a separate but related measure to the formation and enforceability of the administrative act pursuant to the law.
2. The decisions of the Congress of State subject to preventive legitimacy controls shall be enforceable once the legitimating decision of the supervisory body has been taken.
3. The decisions subject to preventive legitimacy shall be enforceable once the legitimating decision of the Administrative Judge of First Instance has been taken.

Art. 26
(Withdrawal of decision before control)

1. The Ministries may withdraw the decisions falling within their competence adopted by the Congress of State and sent to the supervisory body pending the legitimating decision, by means of a written and reasoned request addressed to the Executive Secretariat, which shall inform the supervisory body.
2. Withdrawn decisions shall not be enforceable.

TITLE VI
ACTIVITIES OF THE EXECUTIVE SECRETARIAT OF THE CONGRESS OF STATE

Art. 27
(Agenda)

1. If the ordinary sitting is held on a Monday or Tuesday, by the preceding Thursday the Executive Secretariat of the Congress of State shall electronically draw up the agenda consisting of the notice of the meeting, indicating the items to be discussed, and the proposed decisions accompanied by the attached documents.
2. On the agenda, the proposed decisions shall be divided by Ministry and be preceded by a list indicating the progressive number, the subject matter and useful spaces to note down the approval, rejection or suspension of the proposed decision and any necessary provisions, directions or

corrections.

3. If the Congress of State is convened in an extraordinary or emergency meeting (even in the following hours), the procedure referred to in the preceding paragraphs shall be omitted. The minutes shall state the reasons for the extraordinary or emergency convocation.

Art. 28

(Procedures for the transmission of the Agenda)

1. If the ordinary meeting is held on a Monday or Tuesday, the Executive Secretariat of the Congress of State shall ensure that the agenda is forwarded by e-mail to all the Ministries and to the Their Excellencies the Captains Regent by 10 a.m. on the preceding Friday.

Art. 29

(Proposed decisions)

1. The Ministries shall draw up proposed decisions to be submitted to the Congress of State for approval, on the basis of their respective competences.

2. The Ministries shall ensure that the relevant text is sent to the Executive Secretariat of the Congress of State by e-mail (PA MAIL) or, in exceptional cases only, by optical or magnetic media, no later than the Wednesday preceding the Congress meeting held on Monday or Tuesday, or within two working days preceding the meeting if it is held on a different day.

3. If the proposed decisions are not sent to the Executive Secretariat of the Congress of State, as provided for in the above paragraph, the decision shall not be included in the agenda.

4. Each Ministry shall indicate the person or persons responsible for drafting and transmitting the proposed decisions to which the Executive Secretariat of the Congress of State shall refer to for all requirements.

5. The Executive Secretariat of the Congress of State shall verify the formal and procedural correctness and completeness of the decisions proposed for examination by the Congress of State, in accordance with the provisions of this Regulation.

Art. 30

(Adopted decisions)

1. The Executive Secretariat of the Congress of State, in accordance with the provisions of Article 5, paragraph 3 of Qualified Law no. 184/2005, shall be responsible for drafting the decisions of the Congress of State.

2. After the meeting, the Minister taking the minutes, or the person appointed by the Congress of State to take the minutes, shall hand over the agenda and any item not included therein to the Director of the Executive Secretariat of the Congress of State or the official delegated by the latter for the purpose of drafting the final texts of the decisions.

3. The proposed decisions shall be amended as approved by the Congress of State. It shall be permitted to make material and technical corrections as indicated by the relevant Ministries or to add data missing at the time of the examination.

4. The Minister of Internal Affairs, and through him/ her the Executive Secretariat of the Congress of State, may make formal corrections to the text even after its approval.

5. If, for various reasons, amendments affecting the will of the Congress and the subject of the act are necessary, they may be made by agreement between the Minister of Internal Affairs and the other Ministers, with notification and ratification by the Congress of State at its next meeting unless the Congress of State has given prior authorisation.

6. Without prejudice to the provisions of the preceding paragraphs, the Executive Secretariat of the Congress of State shall check the indication and correctness of the references to the legislation and ensure that the text of the decision adopted by the Congress of State is faithful to that which is being signed.

7. The Executive Secretariat of the Congress of State, having electronically acquired any item not included in the agenda from the competent Ministries, shall typeset the adopted decisions, number them progressively and check the texts in order to correct any material error and imperfection.

Art. 31

(Signing of decisions)

1. Pursuant to the provisions of Article 5, paragraph 4 of Qualified Law no. 184/2005, every decision of the Congress of State shall bear the signature of the Minister of Internal Affairs, which shall be affixed at the end.

2. Decisions shall normally be submitted for signature on the days immediately following the meeting.

3. Pursuant to the provisions of Article 5, paragraph 5 of Qualified Law no. 184/2005, in case of absence or temporary impediment of the Minister of Internal Affairs, he or she shall be replaced by another Minister specifically appointed by the Congress of State.

4. The original copy of the adopted decisions - including the annexes, which form an integral part thereof - shall be signed on each page by the Minister of Internal Affairs or, in case of impediment, by another specifically delegated Minister.

Art. 32

(Transmission of decisions)

1. Once the decisions of the meeting have been submitted to the Minister of Internal Affairs for signature, the Executive Secretariat of the Congress of State shall scan them electronically in a non-editable image format, thus forming an electronic archive.

2. The files of the decisions referred to in the preceding paragraph shall be sent in their integral version by e-mail to the Their Excellencies the Captains Regent, to all the Ministries and to the Directorate General of Public Finance, as well as to the Offices referred to in the abstract from the minutes of the decision.

3. In accordance with the provisions of Article 5, paragraph 3 of Qualified Law no. 184/2005, the Executive Secretariat of the Congress of State shall transmit the texts of the Decree-Laws, Delegated Decrees and Regulations adopted by the Congress of State to the State Institutional Secretariat in certified copies for promulgation by the Captains Regent.

4. A copy of the decisions shall be sent by the Executive Secretariat of the Congress of State, within the peremptory deadline (30 days) referred to in Article 55 of Decree no. 53 of 24 April 2003 as amended by Article 11 of Decree no. 75 of 7 June 2004, to the Directorate General of Public Finance by hand delivered registered letter for the relevant controls required by law.

5. For the purposes of the preventive control of legitimacy, pursuant to article 24 of Law no. 68 of 28 June 1989, a copy of the decisions adopted by the Congress of State, shall be sent to the Specialised Section of Administrative Jurisdiction at the Single Court by hand delivery, with "acknowledgement of receipt" within the (peremptory) deadline of 10 days from their issue.

6. The Executive Secretariat of the Congress of State shall ensure that photocopies of the decisions are sent to the private individuals named in the abstract from the minutes, by ordinary mail or by registered mail with acknowledgement of receipt.

Art. 33

(Additional requirements)

1. The decisions of the competent bodies in the context of preventive legitimacy control shall be notified to the interested parties and to the competent Offices by the Executive Secretariat of the Congress of State.
2. In order to fulfil the obligations set forth in Article 34 below, the Executive Secretariat of the Congress of State shall affix the stamped endorsement "non-enforceable" on the original of withdrawn decisions referred to in Article 26, paragraph 1 above and the decisions declared illegitimate by the supervisory body, once formally notified.

TITLE VII

STORAGE, CONSULTATION AND PUBLICATION OF DECISIONS

Art. 34

(Storage and consultation of the decisions of the Congress of State)

1. The Executive Secretariat of the Congress of State shall keep the original copies of the decisions adopted by the Congress of State.
2. The decisions adopted by the Congress of State - duly signed at the end by the Minister of Internal Affairs - shall be collected in appropriate registers, consisting of numbered sheets bearing the stamped endorsement "Ministry of Internal Affairs". The Congress of State decisions shall be collected chronologically and numbered consecutively by meeting. The register of decisions, except those referred to in Article 15 above, shall be public.
3. The decisions may be consulted at the premises of the Executive Secretariat of the Congress of State by any person who formally requests it, with the exception of decisions, which the Congress of State has expressly declared confidential in accordance with Article 15 above. Consultation shall be free of charge.
4. The consultation and the issuing of simple copies of the decisions of the Congress of State shall be carried out in the manner established by the Executive Secretariat of the Congress of State, without prejudice to any restrictions imposed by the Director limited to the decisions referred to in Article 36, paragraph 3.

Art. 35

(Issue of certified copies)

1. The issue of certified copies of decisions of the Congress of State shall be permitted only for those enforceable decisions that are not expressly declared confidential by the Congress of State pursuant to Article 15 above.
2. The Executive Secretariat of the Congress of State shall be responsible for issuing such copies, both for internal use within the Public Administration and in the case of requests from external parties.
3. The issue of certified copies of decisions to private individuals, for reasons other than study, shall be subject to payment of a stamp duty except for uses for which the laws in force provide for an exemption.
4. The issue of certified copies of the decisions shall be carried out in the manner established by the Executive Secretariat of the Congress of State, without prejudice to any restrictions imposed by the Director limited to the decisions referred to in Article 36, paragraph 3.
5. Certified copies of decisions of the Congress of State, requested by public officials for work reasons, shall be exempt from all taxes.

Art. 36

(Publication of decisions of the Congress of State on the website)

1. The decisions, with the exception of those expressly declared confidential by the Congress of State, shall be published and disseminated on the website of the Ministry of Internal Affairs by the Executive Secretariat of the Congress of State.
2. The decisions shall be published and disseminated on the website if and when they become enforceable.
3. When publishing the decisions referred to in the preceding paragraphs, the Executive Secretariat of the Congress of State shall blank out, with omissions, sensitive personal data whose processing has not been authorised in advance by the data owners, in accordance with the rules on the protection of privacy and the provisions of the Data Protection Authority.

**TITLE VIII
FINAL PROVISIONS**

Art. 37

(Amendments to the Regulation)

1. Amendments to this Regulation shall be approved by the Congress of State according to the procedure envisaged in Article 8, paragraph 3, of Qualified Law no. 184 of 15 December 2005.

Art. 38

(Publication)

1. This Regulation shall be published according to law and be included in the Official Bulletin, in accordance with the provisions of Article 8, paragraph 2 of Qualified Law no. 184 of 15 December 2005.

Art. 39

(Repeal)

This Regulation shall repeal and replace Regulation no. 4 of 10 May 2007.

Done at Our Residence, on 29 November 2010/1710 since the Foundation of the Republic.

THE CAPTAINS REGENT

Giovanni Francesco Ugolini – Andrea Zafferani

THE MINISTER OF
INTERNAL AFFAIRS
Valeria Ciavatta