



REPUBLIC OF SAN MARINO

DECREE-LAW no. 108 of 17 August 2016

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

*Having regard to the conditions of need and urgency referred to in Article 2, paragraph 2, letter b) of Constitutional Law no. 183 of 15 December 2005 and in Article 12 of Qualified Law no. 184 of 15 December 2005, and more precisely the need and urgency to rapidly implement the regulatory amendment in order to provide legitimacy and continuity to the operational processes undertaken according to the guidelines of the Great and General Council;
Having regard to Congress of State Decision no. 2, adopted during its sitting of 10 August 2016;
Having regard to Article 5, paragraph 2 of Constitutional Law no. 185/2005 and to Articles 9 and 10, paragraph 2 of Qualified Law no. 186/2005;
Promulgate and order the publication of the following Decree-Law:*

**AMENDMENTS TO THE REGULATION OF THE GENDARMERIE - LAW NO.
131 OF 12 NOVEMBER 1987, LAW NO. 60 OF 24 JULY 1992 AND LAW NO.
100 OF 5 SEPTEMBER 1997**

Art. 1

1. Article 6 of Law no. 131 of 12 November 1987 and subsequent amendments shall be replaced as follows:

*“Art. 6
(Components)*

1. The Gendarmerie shall include:
 - a) Units;
 - b) Offices and Squads;
 - c) Brigades.”.

Art. 2

1. Article 7 of Law no. 131 of 12 November 1987 shall be replaced as follows:

*“Art. 7
(Units)*

1. Units shall constitute the organisational structure that ensures the consistent and integrated exercise of the powers of this Corps.

2. They shall perform different tasks for homogeneous functional areas, including guidance, coordination and control of their dependent components, to which they provide the necessary technical, logistical and administrative support.
3. They shall be operational directorates directly responsible to the Commander of the Gendarmerie.
4. They shall be headed by Officers.
5. Units shall be divided as follows:
 - a) Command Unit: the operational unit through which the activities of the Corps are coordinated and controlled by following the guidelines and instructions of the Commander of the Gendarmerie.

The Command Unit shall also perform the following functions: administrative, accounting, asset and logistical management of staff, as well as of goods and vehicles of the Corps; planning of working hours; planning of public order and public security activities; planning of escort and protection services; coordination of Brigades; issuing of certifications, declarations and authorisations signed by the Commander; Commander's Secretariat; management of the security secretariat; relations with the Basic Body; notifications; relations and cooperation with other San Marino administrations; relations and cooperation with other foreign administrations; planning of professional training and refresher courses;
 - b) Operational and Judicial Police Unit: it shall perform the following functions: operational activities and investigations for the prevention and repression of crimes in general, including those resulting from the consumption, sale and trafficking of drugs as well as from the illegal possession, circulation, trade, production, import or export of treasures of artistic and cultural value; information research and analysis for a proactive investigative approach to prevent and combat cybercrime, organized crime, corruption, money laundering and terrorism; forensic police;
 - c) Territory Prevention and Control Services Unit: it shall performs the following functions: territorial prevention and control services; operations centre; emergency services; management of the Corps' electronic files pursuant to the regulations and international agreements in force; management of the Corps' IT structure;
 - d) Administrative Police, Social Police, Studies and Statistics Unit: it shall be responsible for the following areas: immigration, foreigners and naturalisation under the legislation in force; guns, ammunition and pyrotechnics under the legislation in force; supervisory activities and private investigations under the legislation in force; gender violence and violence against children; issues related to the social police; research, collection, analysis and processing of data for statistical purposes.

Art. 3

1. Article 8 of Law no. 131 of 12 November 1987 shall be replaced as follows:

“Art. 8
(Offices and Squads)”

1. Offices and Squads shall be the basic operational divisions, which carry out the tasks relating to the Gendarmerie's institutional functions, in order to pursue the objectives of this Corps in its areas of competence.
2. For organisational purposes, they may be merged.
3. They shall be responsible to the Units and shall be headed by Marshals or Brigadiers or Deputy Brigadiers, as the case may be.”.

Art. 4

1. Article 9 of Law no. 131 of 12 November 1987 and subsequent amendments shall be replaced as follows:

“Art. 9
(Brigades)

1. Brigades shall be basic operational divisions, which carry out the tasks relating to the Gendarmerie’ institutional functions in defined peripheral territorial areas.
2. They shall have different structures in relation to their size and importance and, as essential divisions for the control of the territory, they shall constitute a reference point for the Units in fulfilling the tasks falling within their respective competences.
3. They shall be coordinated by the Command Unit and shall be headed by Marshals or Brigadiers or Deputy Brigadiers, as the case may be.”.

Art. 5

1. Article 10 of Law no. 131 of 12 November 1987 and subsequent amendments shall be replaced as follows:

“Art. 10
(Organisational chart)

1. The organisational chart of the Gendarmerie shall be as follows:
 - a) Commander Officer;
 - b) 4 Officers commanding the Units; one of them also acting as Deputy Commander;
 - c) 8 Marshals;
 - d) 16 Brigadiers;
 - e) Deputy Brigadiers;
 - f) Lance-corporals;
 - g) Agents;
 - h) Cadet agents;
 - i) Auxiliary agents.
2. With the exclusion of the Commander Officer, the members of the Gendarmerie shall have the rank of Judicial Police Officers.
3. There shall be no limit to the number of Deputy Brigadiers, Lance-corporals and Agents.
4. For service needs, reported by the Commander of the Gendarmerie, the Great and General Council, upon proposal of the Minister of Foreign Affairs and subject to the opinion of the Congress of State, may order that staff members be increased by issuing new recruitment announcements for Cadet agents.
5. The Military Congress shall be informed of said issue in order to fulfil the relevant requirements.
6. The recruitment announcement shall take into account the provisions of Delegated Decree no. 59 of 29 April 2015 and provide for the following requirements:
 - a) being psychically and physically fit to serve, as provided for by Art. 11, paragraph 1 of Law no. 15/1990 and by the Military Health Regulation approved by Congress of State Regulation;
 - b) not being in any of the situations of incompatibility referred to in Article 8 of Delegated Decree no. 59 of 29 April 2015;
 - c) not having been expelled from any police or military corps.
7. For exceptional needs of security and public order, members of the Volunteer Military Corps may serve as employees and in support of the Gendarmerie, subject to authorisation of the Minister of Foreign Affairs, who shall notify the Higher Command thereof.
8. The Command of the Gendarmerie shall coordinate and organise security and public order services.

9. The recruitment of Auxiliary agents (fourth salary level) for temporary service needs reported by the Commander of the Gendarmerie shall take place following a Congress of State decision upon request of the Minister of Foreign Affairs, who shall inform the Higher Command of the Militia thereof.
10. The Military Congress shall be informed that the selection procedure has been started.
11. Auxiliary agents shall be selected on the basis of the ranking list composed of those who have obtained the qualification following the course for Police Officers organised by C.U.F.S. - University Centre for Security Training - established at the University of the Republic of San Marino or by the CFP - San Marino Vocational Training Centre. If no one obtains the qualification, Auxiliary agents may be selected on an extraordinary basis from among members of the Voluntary Military Corps who have completed at least four years of uninterrupted service in the aforementioned Corps and have attended a training course on public order and security, as part of training activities for members of the Voluntary Military Corps, also taking into account the experience acquired and their disciplinary status.
12. Auxiliary agents shall also meet the following requirements:
- a) being San Marino citizens or residents in the Republic and citizens of a country with which San Marino has concluded conventions envisaging reciprocity in similar cases, provided that the requirements envisaged by the above-mentioned conventions are met;
 - b) having obtained a high school diploma;
 - c) being aged at least 18 and no more than 35;
 - d) having been granted the authorisation of the Military Congress in case of members of San Marino Voluntary Military Corps;
 - e) not having been convicted by a criminal judgement having the force of *res judicata* for a crime committed intentionally and not having been punished with more than one year's imprisonment or disqualification from public offices;
 - f) enjoying civil and political rights;
 - g) being not less than 1.70 m high for men or 1.65 m high for women;
 - h) having a minimum visual acuity of 8/10 for both eyes;
 - i) being psychically and physically fit to serve, as provided for by Art. 11, paragraph 1 of Law no. 15/1990 and by the Military Health Regulation approved by Congress of State Regulation;
 - j) holding a category "A" and "B" driving licence.
13. Auxiliary agents shall be recruited for a maximum non-renewable period of twelve months. Once the selection procedure is completed, the Military Congress shall be notified of the recruitment for its acknowledgement.
14. The Auxiliary agent shall be entitled to participate in public competitions for the Police Corps with the limits provided for in the respective announcements, taking into account that, in case of equal merit, those who have already served as Auxiliary agents shall prevail.
15. If the Commander of the Gendarmerie expresses a negative opinion from a disciplinary and service point of view before the expiry of the maximum period envisaged, the interested Auxiliary agent shall be removed *ex officio* with a motivated decree and with acknowledgement by the Military Congress.
16. As a subordinate measure, to enable the Gendarmerie to carry out merely administrative functions, upon motivated request of the Commander of the Gendarmerie, the Minister of Foreign Affairs may propose to the Congress of State to order the administrative secondment of specific employees of the Overall Public Sector by its own decision, through the procedures envisaged by the regulations in force."

Art. 6

1. Article 13 of Law no. 131 of 12 November 1987 shall be replaced as follows:

"Art. 13
(Commander Officer)

1. The Commander Officer of the Gendarmerie, in short Commander, in possession of a degree in legal subjects or similar specialisations, or equivalent qualifications obtained at Military Academies or Police Schools, shall be recruited by nominal call by the Great and General Council upon proposal of the Minister of Foreign Affairs, once the curriculum vitae, professional skills and specialisation of the candidate have been assessed.
2. After the successful completion of the one-year probationary period, as assessed by the Minister Foreign Affairs, the Commander Officer shall be subject to five-year renewals.
3. The Commander Officer shall be responsible to the Minister of Foreign Affairs with respect to the guidelines received, as well as to the Ministers specifically competent for the guidelines envisaged by the laws attributing special functions to the Gendarmerie.
4. In the exercise of his duties, the Commander Officer shall be a public officer and shall not hold the rank of Judicial Police Officer.
5. In addition to what is specified in this Decree-Law, the Commander Officer, either personally or through a delegate, where permitted, shall direct, organise and coordinate the activities of the Gendarmerie, with all the tasks assigned to him, and:
 - a) shall exercise all the other functions provided for by the laws in force;
 - b) shall represent the Gendarmerie at all levels;
 - c) shall issue directives and shall supervise the performance of tasks in accordance with the purposes of the Gendarmerie;
 - d) in compliance with the general guidelines adopted by the Department Council of the Police Department, shall coordinate the tasks of the Gendarmeries with those of the other Police Corps and Public Administration Offices, State Entities or Corporations on the basis of what is established by the regulations in force;
 - e) in compliance with the provisions of Decree-Law no. 89 of 11 June 2014, shall ensure and promote the widest possible assistance to the National Central Bureau of Interpol, in order to promptly meet the needs of international technical and operational police cooperation;
 - f) shall maintain relations with the Judiciary;
 - g) shall propose disciplinary sanctions or military rewards for the military staff of the Gendarmerie in accordance with the provisions of Law no. 15 of 26 January 1990 regulating military corps and subsequent amendments;
 - h) in compliance with the provisions of Article 5 of Delegated Decree no. 59 of 29 April 2015 and with the general guidelines adopted by the Department Council of the Police Department, shall set the educational and scientific objectives of the professional training and refresher courses of employees;
 - i) shall promote and define the methodologies for the prevention of corruption within the Gendarmerie in accordance with the relevant national and international guidelines, programmes and regulations in force;
 - j) shall define criteria, procedures and other organisational measures to prevent all forms of corruption;
 - k) shall prepare the Internal Regulations pursuant to Art. 28 of Law no. 131 of 12 November 1987.
6. The Commander Officer, after assessing the operational needs and workloads, shall establish or modify Offices, Squads and Brigades and shall define their duties and staff by its own decision, informing the Minister of Foreign Affairs thereof.
7. The Commander shall define the duties and staff of the units, by assessing operational needs and workloads."

Art. 7

1. After Article 13 of Law no. 131 of 12 November 1987, the following Article 13-bis shall be added:

“Art. 13-bis
(Officers)

1. The Officers shall exercise the powers established by the legislation in force, as well as those assigned by the Commander.
2. In addition:
 - a) they shall perform the functions of command, direction, coordination and control of the Units headed by them;
 - b) they shall adopt the acts and measures falling within their competence and shall be responsible for the activity carried out by the Unit and the relevant results;
 - c) in the performance of their duties, they shall apply the criteria and guidelines established by the Commander and shall be responsible for the projects and management attributed to them;
 - d) in order to ensure the functionality of the service for the achievement of the institutional objectives, they shall manage and use of the resources allocated according to criteria of effectiveness, efficiency and economy;
 - e) they shall make proposals and provide opinions to the Commander;
 - f) they shall plan the professional training and refresher courses of the staff, based on the objectives set by the Commander;
 - g) they shall fruitfully interact with their peers in order to coordinate activities and rationalise resources.
3. Recruitment in the Gendarmerie as an Officer (eighth salary level) for service needs reported by the Commander shall take place following a competition announcement issued by the Great and General Council upon proposal of the Minister of Foreign Affairs.
4. The Military Congress shall be informed of said issue in order to fulfil the relevant requirements.
5. The competition announcement for Officers shall take into account the provisions of Delegated Decree no. 59 of 29 April 2015 and provide for the following requirements:
 - a) degree, master's degree or equivalent qualifications obtained at Military Academies or Police Schools;
 - b) being psychically and physically fit to serve, as provided for by Art. 11, paragraph 1 of Law no. 15/1990 and by the Military Health Regulation approved by Congress of State Regulation;
 - c) not being in any of the situations of incompatibility referred to in Article 8 of Delegated Decree no. 59 of 29 April 2015;
 - d) not having been expelled from any police or military corps.
6. In case of equal merit, those who are already members of the Gendarmerie shall prevail.
7. Successful candidates shall be required to attend a theoretical and practical course.
8. After the successful completion of the one-year probationary period, the Commander of the Gendarmerie shall inform the Military Congress thereof for the relevant acknowledgement and the Congress of State for the final recruitment of the Officer, with the rank of Lieutenant, through the acknowledgement of the Great and General Council.
9. If the Commander expresses an unfavourable assessment of the probationary period with motivated communication to the Minister of Foreign Affairs, the Officer shall be removed *ex officio* by decision of the Congress of State.
10. In case of removal after the probationary period, the Officer shall be entitled to payment of one month's salary for each year of service, which may be divided into twelfths for the period of service rendered.
11. The Deputy Commander Officer, chosen from among the Officers of the Gendarmerie, shall be appointed by decision of the Congress of State upon proposal of the Minister of Foreign Affairs, after assessing what reported by the Commander.

12. In addition to the duties of Commander of the Unit, the Deputy Commander Officer shall exercise the functions of the Commander in case of his absence or impediment and shall assist him in performing the delegated duties and tasks.

13. The term of office of the Deputy Commander shall be three years, which may be renewed in accordance with the provisions of paragraph 11.”.

Art. 8

1. After Article 15 of Law no. 131 of 12 November 1987, the following Article 15-bis shall be added:

“Art. 15-bis

(Checks over aptitude, professional and integrity requirements)

1. The Commander shall annually prepare a form for the assessment of aptitude, professional and integrity requirements of all military staff of the Gendarmerie, in accordance with Delegated Decree no. 59 of 29 April 2015.

2. For the assessment of Marshals, Brigadiers, Deputy Brigadiers, Lance-corporals, Agents, Cadet agents and Auxiliary agents, the Commander shall rely on the reports of the Officers heading the Units to whom the above military staff are responsible.

3. The assessment form, prepared by the Commander according to objective criteria specified in the Regulation referred to in Art. 28 of Law no. 131 of 12 November 1987, shall assign the following ratings, which shall be one of the useful parameters for career advancement:

- a) excellent;
- b) very good;
- c) good;
- d) sufficient;
- e) insufficient.”.

Art. 9

1. After Article 15-bis of Law no. 131 of 12 November 1987, the following Article 15-ter shall be added:

“Art. 15-ter

(Identification card and badge)

1. The members of the Gendarmerie shall be provided with an identification card that certifies their profession, identity and rank.

2. The identification cards shall be prepared according to technical requirements established by the Commander and approved by the Minister of Foreign Affairs.

3. The Commander Officer’s card shall be signed by the Minister of Foreign Affairs.

4. The identification cards of the remaining staff of the Gendarmerie shall be signed by the Commander.

5. The card shall always be shown in case of request or if the need arises during the performance of the duties in civilian dress.

6. In performing their duties in uniform, the members of the Gendarmerie shall display the badge of the Gendarmerie bearing a progressive number, which shall be personal and indicate the personal details.”.

Art. 10

1. After Article 15-ter of Law no. 131 of 12 November 1987, the following Article 15-quater shall be added:

“Art. 15-quater
(Administrative controls)”

1. The military staff of the Gendarmerie shall have the power to enter at any time the premises intended for the exercise of activities subject to administrative authorisations and to monitor compliance with the requirements provided for by laws, regulations and authorities.”.

Art. 11

1. After Article 15-quater of Law no. 131 of 12 November 1987, the following Article 15-quinquies shall be added:

“Art. 15-quinquies
(Weapons supplied)”

1. The members of the Gendarmerie shall carry the weapons referred to in Article 5, point 2 of Law no. 131 of 12 November 1987 and subsequent amendments, in the cases and with the limits and requirements provided for by a specific Regulation to be approved by Regency Decree.

2. The use of weapons by the members of the Gendarmerie shall be permitted in the cases and within the limits provided for in Articles 41 and 42 of the Criminal Code.”.

Art. 12

(Final and transitional provisions)

1. By way of derogation from the provisions of Article 13-bis of Law no. 131 of November 12, 1987, military staff who, at the time of the entry into force of this Decree-Law, have effectively served for at least three years in the Gendarmerie with the rank of Marshal and have successfully attended the Officer Training Course held by the Higher Command of the Militia shall be promoted to the rank of Lieutenant, provided that they have not been subject to any disciplinary measures preventing such promotion.

2. By way of derogation from the provisions of Article 15 of Law no. 131 of 12 November 1987 and subsequent amendments, military staff who, at the time of the entry into force of this Decree-Law, effectively serve in the Gendarmerie with the rank of Brigadier shall be promoted to the rank of Marshal, provided that they have not been subject to any disciplinary measures preventing such promotion.

Done at Our Residence, on 17 August 2016/1715 since the Foundation of the Republic

THE CAPTAINS REGENT

Gian Nicola Berti - Massimo Andrea Ugolini

THE MINISTER OF
INTERNAL AFFAIRS
Gian Carlo Venturini