



# REPUBLIC OF SAN MARINO

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

*Having regard to Article 4 of Constitutional Law no. 185/2005 and Article 6 of Qualified Law no. 186/2005;*

*Hereby promulgate and order the publication of the following Qualified Law, approved by the Great and General Council during its sitting of 31 July 2019 with 48 votes in favour:*

### **QUALIFIED LAW NO. 2 OF 5 AUGUST 2019**

#### **NEW ELECTORAL PROVISIONS**

**(AMENDMENTS TO LAW NO. 6 OF 31 JANUARY 1996 "ELECTORAL LAW", AS AMENDED BY QUALIFIED LAW NO. 1/2007, BY QUALIFIED LAW NO. 1/2008 AND BY QUALIFIED LAW NO. 3/2016. AMENDMENTS TO QUALIFIED LAW NO. 186 OF 16 DECEMBER 2005, AS AMENDED BY QUALIFIED LAW NO. 1/2007)**

#### **Art.1**

1. The following paragraphs shall be added to Article 14 (Submission of candidate lists and possibility of coalitions among them) of Law no. 6 of 31 January 1996 "Electoral Law", as replaced by Article 6 of Qualified Law no. 1/2007 and amended by Articles 1 and 2 of Qualified Law no. 1/2008 (hereinafter Law no. 6/1996 and subsequent amendments):

"8 bis. Within ninety-six hours of the expiry of the deadline for submission referred to in paragraph 1, lists or coalitions of lists shall be required to file an attachment to the Government programme indicating the lists or coalitions of lists, on the basis of those submitted pursuant to paragraph 1, with which - in the event that no list or coalition of lists participating in the elections obtains the minimum number of valid votes required for electoral victory and not even the 30 (thirty) quotients based on the operations referred to in paragraph 8 of Article 40 - they decide to start negotiations to form a majority, pursuant to paragraphs 11 and 12 of the aforementioned Article. The possibility of negotiating with lists or coalitions of lists not indicated in the attachment to the Government programme referred to in the previous paragraph shall not be permitted.

"9 bis. In accordance with Article 16, the Election Commission shall also verify that the requirements referred to in paragraph 8 bis are met."

## **Art. 2**

Article 19 (Additional incompatibilities of elected Council Members and forfeiture of office), paragraph 1 of Law no. 6/1996 and subsequent amendments shall be further amended as follows:

“1. Those who are related by vertical family relationship of first degree, by marriage and in cases of de facto cohabitation outside of the marriage, or have entered into a civil registered partnership pursuant to Law no. 147 of 20 November 2018 shall not be Council Members at the same time.”.

## **Art.3**

1. Article 40 (Allocation of seats and announcement of the winning list or coalition of lists) of Law no. 6/1996 and subsequent amendments shall be replaced by the following:

### “Art. 40

*(Allocation of seats and announcement of the winning list or coalition of lists)*

“1. The Central Electoral Office, on the basis of the protocols of the precinct electoral offices, with the assistance, when necessary, of one or more experts chosen by the President, shall perform the following operations: it shall sum up the votes obtained by each list and by each candidate, according to the protocols of all electoral offices.

2. The operation referred to in paragraph 1 shall determine the electoral score of each list, the total number of votes for the list and the individual electoral score of each candidate.

3. The electoral score of each list shall be the result of the sum of valid votes received by the list in all electoral districts. This shall be the basis to determine:

- The admission of the list to the allocation of seats;
- The number of seats of the Great and General Council to which each list is entitled.

4. Each list shall be admitted to the seat allocation if it receives a number of votes equal or greater than 5% of the total number of valid votes.

5. The individual electoral score of each candidate shall be the result of the sum of the list electoral score and the number of valid preferential votes obtained by the candidate in all electoral sections, as counted by the electoral offices. The individual score shall determine the ranking of candidates within the same list. If the individual score is identical, preference shall be given according to the following criteria:

- Female candidate;
- Greatest seniority in office as Council Member;
- Higher age.

6. The Central Electoral Office shall determine the coalition electoral score, by summing up:

- a) The electoral score of each of the lists belonging to the coalition, including lists which are not admitted to the allocation of seats according to paragraph 4 of this Article;
- b) The votes cast for the coalition, without having been marked for any list, according to Art. 36, paragraph 1.

7. The Central Electoral Office shall divide the total number of valid votes by 2 and add 1 to the quotient, rounded up if need be. The result of this operation shall determine the minimum number of valid votes required to declare the electoral victory of a coalition or a single list. If no list or coalition of lists reaches the required minimum number of valid votes, victory shall be declared for the list or coalition of lists which, having received the highest number of votes, reaches also 30 (thirty) of the 60 (sixty) valid quotients, as a result of the operations referred to in paragraph 9.

8. The result of the first round shall determine the allocation of seats to each list, according to the following rules:

- The lists which are not eligible for the allocation of seats according to paragraph 4 of this Article shall be excluded;
- The electoral scores of each of the lists eligible for seat allocation according to paragraph 4 of this Article shall be successively divided by 1, 2, 3, 4, and so forth, until the number 60 (sixty) of members of the Great and General Council to be elected is reached;
- Quotients thus obtained shall be ranked in descending order, from the highest to the smallest.

9. Seats of the Great and General Council shall be allocated, according to the operations described in paragraph 9, to the list or coalition of lists declared as winner for having reached the minimum number of votes according to paragraph 7 or, if this is not the case, for having reached the highest number of votes and the 30 highest quotients. If, according to the operations described in paragraph 8, the number of seats to which the winning list or coalition of lists is entitled is lower than 35, additional seats shall be allocated to the winner as a “stability reward”, in a number which is equal to the quantity of seats missing to reach the number of 35. The additional seats, allocated as a “stability reward”, shall be those corresponding to the lowest quotients according to the operations described in paragraph 8; those seats shall be taken away from lists other than the winning list or which are not part of the winning coalition, starting from the lowest quotients. If one list is entitled to more seats than its number of candidates, seats in excess shall be allocated to other lists within the same coalition, according to the decreasing order of quotients. Council groups that would fall below the minimum number of three Council Members as a result of the reallocation of seats due to the “stability reward” shall not lose the funding benefits referred to in Law no. 170 of 23 November 2005 and subsequent amendments.

10. If, on the basis of the outcome of the first round of the elections, the conditions for determining the victory of the list or coalition of lists are met, once the operations referred to above are concluded, the Central Electoral Office shall officially proclaim the elected Council members, as well as the winning list or coalition of lists, which will receive the majority of seats and a possible “stability reward”.

11. In the event that no list or coalition of lists obtains the minimum number of valid votes required for electoral victory and not even the 30 (thirty) quotients based on the operations referred to in paragraph 8, the Captains Regent shall confer on the list or coalition of lists that has reached the relative majority of votes a 15-day mandate to form the majority through agreement with other lists or coalitions of lists on the basis of the number of seats obtained in the first round, provided that the lists and coalitions of lists maintain the aggregation with which they stood for election and that the majority to be formed reaches the minimum number of 35 seats.

12. If the mandate referred to in paragraph 11 is not successful, the Captains Regent shall confer a new mandate, in the same manner and with the same deadline as the previous one, to the list or coalition of lists ranking second in the first round of the elections.

13. If the mandate referred to in paragraph 11 or, in the alternative, that of paragraph 12 is successful, the Central Electoral Office, once the operations referred to in paragraph 8 have been completed, shall officially proclaim the elected Council members and report the composition of the seats of the majority that has been formed.

14. If no list or coalition of lists obtains the minimum number of valid votes and not even the 30 (thirty) quotients referred to in paragraph 8, and the two mandates referred to in paragraphs 11 and 12 are not successful, the Captains Regent shall call for a second round of voting between the two lists or coalitions of lists, which obtained the highest number of votes during the first round, on the second Sunday following the expiry of the mandate referred to in paragraph 12.

15. In case of a second round of voting, the Central Electoral Office shall receive from the precinct electoral offices the protocols containing the results of the counting of votes. It shall verify which of the two lists or coalitions of lists received the highest number of valid votes, allocate the seats according to the previous paragraphs, and finally proclaim the elected Council members, as well as the winning list or coalition of lists, which will receive the majority of seats and the “stability reward”.

16. The publication of the Regency Decree calling for the second round of voting shall open the election campaign, which shall terminate by 24:00 of the second day preceding the elections, according to Art. 1, paragraph 1 of Law no. 36 of 14 March 1997.

The same lists admitted to the first round of the elections can participate in the electoral campaign for the second round. The appointment of polling station chairpersons and poll-watchers, performed by the Election Commission according to Art. 23 of this Law, shall be extended for the possible second round of voting.”.

#### **Art.4**

1. Article 14 (Government formation procedure) of Qualified Law no. 186 of 16 December 2005, as amended by Article 23 of Qualified Law no. 1 of 11 May 2007, shall be replaced as follows:

#### “Art. 14

#### *(Government formation procedure)*

1. At the beginning of the legislature, immediately after the first session of the Great and General Council, or during the legislature following the acknowledgement by the Council of the resignation of the Congress of State or of the rejection of a vote of no confidence against the Congress of State, according to Art. 9 of Constitutional Law no. 183 of 15 December 2005, thanks to the essential support of votes from Council members who were not elected as part of the list or coalition of lists declared winner of the elections in accordance with Art. 40 of Law no. 6 of 31 January 1996, the Captains Regent shall confer upon the list proclaimed winner of the last elections, or to the major list of the winning coalition, or to the major list, or to the major list belonging to the major coalition of lists referred to in Article 40, paragraphs 11 and 12 of Law no. 6/1996 and subsequent amendments, which have signed the agreement, the mandate to present the Government programme and the indication of candidates for the appointment as members of the Congress of State. These candidates, without prejudice to Art. 1, paragraph 2 of Qualified Law no. 184 of 15 December 2005, shall be chosen from among the Council members of the winning list or from the lists belonging to the winning coalition, or from the lists or coalitions of lists, referred to in paragraphs 11 and 12 of Art. 40 of Law no. 6/1996 and subsequent amendments, which have signed the agreement.

2. The mandate shall indicate the deadline by which the designated political force shall inform the Captains Regent. On expiry of the deadline, or when the designated political force informs about the positive outcome of the mandate, the Captains Regent shall convene the Bureau to summon the Great and General Council, in order to discuss and approve the Government programme and the appointment of the Congress of State. If the outcome of the mandate is negative and if the winner of the elections is not a coalition of lists, the Captains Regent shall in any case convene the Bureau to summon the Great and General Council, in order to acknowledge the dissolution of the majority resulting from the last elections. Art. 9 of Law no. 6 of 31 January 1996 shall be applied and the Captains Regent shall dissolve the Great and General Council.

3. If the mandate referred to in paragraph 1 is conferred upon the major political force of the coalition that won the last elections, and if the outcome is negative, the Captains Regent shall convene each political force belonging to the winning coalition or to the lists or coalitions of lists, referred to in Article 40, paragraphs 11 and 12 of Law no. 6/1996 and subsequent amendments, which have signed the agreement. If they establish that the political conditions are in place, they may confer a new mandate, with a new deadline. In any case, when this second deadline expires, the Captains Regent shall convene the Bureau to summon the Great and General Council either in order to discuss and approve the Government programme and the appointment of the Congress of State, or in order to acknowledge the dissolution of the majority resulting from the last elections. Art. 9 of Law no. 6 of 31 January 1996 shall be applied and the Captains Regent shall dissolve the Great and General Council.”.

## **Art. 5**

1. Paragraph 2 of Article 36 of Law no. 6/1996 and subsequent amendments shall be modified as follows:

“2. The voter who resides in the territory can express preference for three candidates belonging to the chosen list. The voter who resides outside the territory can express preference for one single candidate belonging to the chosen list.”.

## **Art. 6**

1. Article 2 of Qualified Law no. 3 of 23 August 2016 shall be repealed.

2. Paragraph 4 of Article 17 of Law no. 6/1996 and subsequent amendments shall be replaced as follows:

“4. If the number of coalitions and lists not part of a coalition is even, in the central part of the ballot paper there shall be horizontal lines equal to the number of preferences that the voter may express. The possible logo and name of the coalition, as well as the logos of the lists that belong to the coalition, shall be in separate boxes (Annexes A1 and A1 bis). If the number of coalitions and lists not part of a coalition is odd, in the lower part of the ballot paper there shall be horizontal lines, one after the other, equal to the number of preferences that the voter may express (Annexes A2 and A2 bis). The possible logo and name of the coalition, as well as the logos of lists that belong to the coalition, shall be in separate boxes.

## **Art. 7**



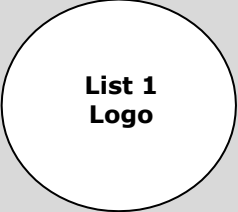
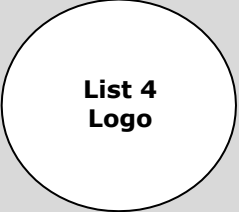
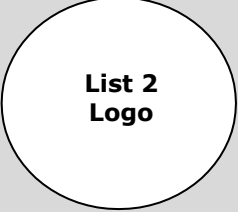
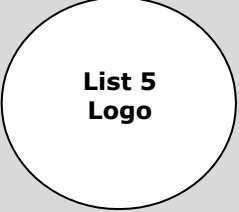
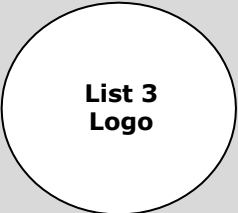
1. This Law shall enter into force on the fifth day following that of its legal publication.

*Done at Our Residence, on 5 August 2019/1718 since the Foundation of the Republic*

THE CAPTAINS REGENT  
*Nicola Selva – Michele Muratori*

THE MINISTER OF  
INTERNAL AFFAIRS  
*Guerrino Zanotti*

Annex "A1 bis" --- First Round

<b>Coalition "A"</b> 	<b>Preference vote</b> <hr/>	<b>Coalition "B"</b> 
 <b>List 1 Logo</b>		 <b>List 4 Logo</b>
 <b>List 2 Logo</b>		 <b>List 5 Logo</b>
 <b>List 3 Logo</b>		

**Coalition "A"**



Voto di Preferenza

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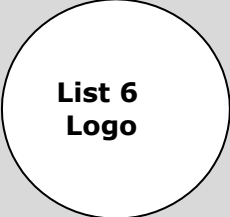


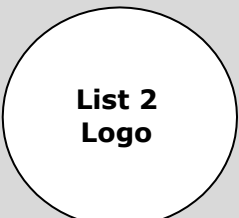


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**Coalition "B"**



Annex "A2 bis" --- First Round

<p><b>Coalition "A"</b></p> 	<p><b>Coalition "B"</b></p> 	
		
		
		
<p><b>Preference vote</b></p> <hr/>		



Coalizione "A"

Coalition  
"A" Logo



Coalizione "B"

Coalition  
"B" Logo



Voto di Preferenza

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