

# REGULATIONS OF THE GENDARMERIE OF THE REPUBLIC OF SAN MARINO

Law no. 131 of 12 November 1987

(as amended by Law no. 60 of 24 July 1992, Law no. 100 of 5 September 1997, Decree-Law no. 33 of 23 March 2017 and Delegated Decree no. 159 of 31 August 2021)

## **Art. 1**

The Gendarmerie shall be part of the Military Corps of the Republic of San Marino. The provisions of the Staff and Military Discipline Regulations shall apply to it.

## **Art. 2**

The Gendarmerie shall be established with a view to preventing and repressing crimes, maintaining public order, guaranteeing security and safety of citizens and protecting property; to ensuring compliance with the Laws, Decrees and Regulations of the State; to providing aid in case of disaster; to enforcing legitimate orders issued by Public Authorities.

The members of the Gendarmerie shall not take political offices nor carry out party activities.

## **Art. 3**

The Gendarmerie shall perform the honour and security escort service.

## **Art. 4**

The Gendarmerie shall escort, accompany and assist detainees; in addition, it shall perform the necessary services at San Marino Court during the hearings, and in any case, every time the Judicial Authority requests such services for reasons related to the judicial police.

## **Art. 5**

The Gendarmerie shall be responsible to:

- 1) Their Excellencies the Captains Regent for public order and security;
- 2) the Minister of Foreign Affairs for recruitment, administration, equipment, armament and, in general, for anything concerning the proper functioning of the service;
- 3) the Judiciary for the tasks related to the judicial police;
- 4) the Military Congress for anything concerning military discipline.

## **Art. 6**

*(Components)*

1. The Gendarmerie shall include:

- a) Units;
- b) Offices and Squads;
- c) Brigades.

## **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. 8**

##### *(Offices and Squads)*

1. Offices and Squads shall be the basic operational divisions, which carry out the tasks relating to the Gendarmerie's 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. 9**

##### *(Brigades)*

1. Brigades shall be basic operational divisions, which shall carry out the tasks relating to the Gendarmerie's functions in specific 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. 10**

##### *(Organisational chart)*

1. The organisational chart of the Gendarmerie shall be as follows:

- a) a Commander Officer;
  - b) 4 Officers commanding the Units; one of them shall also act as Deputy Commander;
  - c) 8 Marshals;
  - d) 16 Brigadiers;
  - e) Deputy Brigadiers;
  - f) Lance-corporals;
  - g) 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. Abolished (Delegated Decree no. 159 of 31 August 2021).
  5. Abolished (Delegated Decree no. 159 of 31 August 2021).
  6. Abolished (Delegated Decree no. 159 of 31 August 2021).
  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 and of the Higher Command of the Militia.
  8. The Command of the Gendarmerie shall coordinate and organise security and public order services.
  9. Abolished (Delegated Decree no. 159 of 31 August 2021).
  10. Abolished (Delegated Decree no. 159 of 31 August 2021).
  11. Abolished (Delegated Decree no. 159 of 31 August 2021).
  12. Abolished (Delegated Decree no. 159 of 31 August 2021).
  13. Abolished (Delegated Decree no. 159 of 31 August 2021).
  14. Abolished (Delegated Decree no. 159 of 31 August 2021).
  15. Abolished (Delegated Decree no. 159 of 31 August 2021).
  16. To enable the Gendarmerie to carry out merely administrative functions, upon motivated request of its Commander, the Minister of Foreign Affairs shall 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 legislation in force.

#### **Art. 11**

Abolished (Delegated Decree no. 159 of 31 August 2021).

#### **Art. 12**

Abolished (Delegated Decree no. 159 of 31 August 2021).

#### **Art. 13**

*(Commander Officer)*

1. The Commander Officer of the Gendarmerie, or simply Commander, holding 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 Congress of State, once the curriculum vitae, professional skills and specialisation of the candidate have been assessed. The Congress of State, after hearing the Minister of Foreign Affairs, shall award the Commander with the relevant rank, with acknowledgement by the Military Congress.
2. After the successful completion of the one-year probationary period, as assessed by the Minister of 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 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 thereto, 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 Gendarmerie with those of the other Police Corps and Public Administration Offices, State Entities or Corporations on the basis of what is established by the legislation 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 the Staff and Military Discipline 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 legislation in force;
- j) shall define criteria, procedures and other organisational measures to prevent all forms of corruption;
- k) shall draw up 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 and the Military Congress thereof.

7. The Commander shall define the duties and staff of the units, by assessing operational needs and workloads.

#### **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 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. Abolished (Delegated Decree no. 159 of 31 August 2021).

4. Abolished (Delegated Decree no. 159 of 31 August 2021).

5. Abolished (Delegated Decree no. 159 of 31 August 2021).

6. Abolished (Delegated Decree no. 159 of 31 August 2021).

7. Abolished (Delegated Decree no. 159 of 31 August 2021).

8. Abolished (Delegated Decree no. 159 of 31 August 2021).

9. Abolished (Delegated Decree no. 159 of 31 August 2021).

10. Abolished (Delegated Decree no. 159 of 31 August 2021).

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. 14**

Upon recruitment on a permanent basis, Agents shall take oath before the Higher Commander of the Militia in a form and manner established by the Military Regulations.

Refusal to take the oath shall entail non-recruitment.

#### **Art. 15**

Abolished (Delegated Decree no. 159 of 31 August 2021).

#### **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 and 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 Regulations 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. 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. 15-quater**

*(Administrative controls)*

1. The members 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. 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. 16**

The levels of remuneration of the Agents, in accordance with the provisions of the Annex to Law no. 86 of 25 November 1980 and subsequent amendments, shall be the following:

- a Commander Officer                      level 10
- a Deputy Commander Officer          level 9
- 8 Marshals                                    level 8
- 16 Brigadiers                                level 7
- Deputy Brigadiers                         level 6 bis pensionable
- Lance-corporals                            level 6
- Agents                                         level 5

Remuneration shall be subject to any increases and variations as established in favour of State employees.

Agents shall be entitled to the following:

- allowance deriving from military status;
- duty allowance;
- allowance for command responsibilities;
- remuneration for overtime work;
- remuneration for ordinary service during night and holiday hours;
- family allowances, living allowance, thirteenth month's pay, severance pay, in accordance with the laws in force.

The above mentioned allowances shall be established by Regency decree.

**Art. 17**

Ordinary on-duty hours shall be 36 per week, split into one or more daily shifts.

Agents shall be required to provide extraordinary service, when required, for a maximum of 120 hours per year.

Agents shall benefit from two days of rest per week which, if not used for service needs, shall be generally used within the following week.

The Commander of the Gendarmerie, for service needs or other justified reasons, may transfer Agents or Non-commissioned Officers to any other dependent location.

**Art. 18**

Agents shall be entitled to the following leaves:

- a) 1 day per month during the first year of service;
- b) 15 days during the second year of service;
- c) 20 days during the third year of service;
- d) 26 days from the fourth year of service onwards.

The leaves may be used within one or more periods according to the service needs.

Agents shall also be entitled to the following extraordinary leaves:

- a) 15 days in case of marriage;
- b) 5 days for severe family bereavement;
- c) 2 days a year for special circumstances;
- d) 20 days a year to take exams or for study purposes related to regular courses;
- e) sports leaves, according to the requirements of the regulations governing the activity of San Marino National Olympic Committee.

The Commander of the Gendarmerie shall authorise leaves and extraordinary leaves and may suspend the enjoyment thereof for service needs.

Ordinary leaves shall not be waived.

**Art. 19**

Agents shall be temporarily exempted from the service and placed on leave, upon request or ex officio, for one of the following reasons:

- a) occupational disease;
- b) non-occupational disease;
- c) personal reasons;
- d) pregnancy or puerperium.

The above leaves shall normally cease when the related cause ceases.

The leave referred to in letter a) above shall be granted for a maximum of 3 years, with payment of the entire remuneration.

Two or more periods of leave shall be added together for the purposes of establishing the maximum duration limit, provided that a period of service exceeding 3 months does not run between them.

In any case, the total duration of the leave cannot exceed 3 years in a five-year period.

The leave referred to in letter b) above shall be granted for a period of 6 months, with payment of the entire remuneration.

The leave may be extended up to a maximum of one year, with payment of 86% of the entire remuneration.

Once the maximum period of leave has elapsed:

- 1) Agents not able to resume unconditional service shall be placed on retirement and shall be entitled to the retirement pension;
- 2) Agents not able to fully perform the service shall be transferred to another corresponding role, while preserving to all effects the seniority and remuneration level accrued.

The leave referred to in letter c) above shall be granted for a maximum of one year, without payment of the remuneration.

In case of pregnancy or puerperium, Agents shall benefit from what is envisaged for State employees. Moreover, they shall provide office service only and shall be exempt from wearing the uniform.

#### **Art. 20**

Agents shall be placed on retirement upon reaching 53 years of age, although they may request to extend the service until reaching 60 years of age.

Officers shall be placed on retirement upon reaching 60 years of age.

Without prejudice to the general provisions of Law no. 15 of 11 February 1983, Agents shall be subject to the general compulsory insurance provided for by the above mentioned Law.

When Agents retire for having reached statutory retirement age or for permanent disability not allowing them to remain in service, and provided that they have not accrued full pension rights or other pension rights in San Marino (excluding pension rights accrued through voluntary payments), they may redeem up to a maximum of five years for the purpose of receiving a retirement pension, after payment of statutory contributions based on the last remuneration received.

To this end, the Social Security Institute shall be authorised to credit the relevant contributions in accordance with Art. 9 of Law no. 15 of 1983.

From the moment of retirement until reaching 65 years of age, the costs deriving from the payment of the pension, in application of these provisions, shall be totally borne by the State.

#### **Art. 21**

Agents may, at any time, resign in writing to the Command of the Gendarmerie.

Any resignation shall be notified to the Congress of State, which shall take note thereof and may order the resigning Agent to remain in service for a period of time ranging from a minimum of one month to a maximum of 3 months.

The Congress of State may suspend the payment of severance pay when criminal or disciplinary proceedings are ongoing.

#### **Art. 22**

Agents who have particularly distinguished themselves in the performance of their duties may obtain the following recognitions:

commendation of the Commander of the Gendarmerie;

commendation of the Higher Commander of the Militia;

solemn commendation of Their Excellencies the Captains Regent.

#### **Art. 23**

Without prejudice to the competence of the Congress of State with regard to administrative sanctions, disciplinary punishments shall be applied in the forms and manner prescribed by the Military Disciplinary Regulations.

#### **Art. 24**

Agents shall be insured for occupational risks and accidents, which can cause death or permanent disability.

In case of death, the insurance amount shall be due to the legitimate heirs or legatees.

#### **Art. 25**

The transfer, seizure or foreclosure of the remuneration shall only take place in the cases and within the limits established by Law of 27 May 1899 and shall not in any case exceed one fifth of the remuneration.



**Art. 26**

The Gendarmerie shall elect five delegates constituting its basic representation body.