



# 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 sittings and functioning of the Congress of State, as well as the procedures to draw up, approve and enforce the acts falling within its competence.

### **TITLE II SITTINGS OF THE CONGRESS OF STATE**

**Art. 2**  
*(Sittings of the Congress of State)*

1. The sittings of the Congress of State shall usually be held in a room of the Government Building and convened by the Captains Regent. The sittings of the Congress of State may be convened by only one of the two Captains Regent in case of absence or impediment of the other.
2. The agenda shall be set by the Captains Regent on the basis of proposals made by the Ministers.
3. The sittings shall be valid if half of the members of the Congress of State are present. A sitting shall be deemed void if, thirty minutes after the time indicated in the notice of the sitting, a quorum is not present in the meeting room.
4. The Captains Regent shall coordinate the works of the sittings of the Congress of State. In case of absence or impediment of one of the two Captains Regent, the sittings may be coordinated by only one Captain Regent.
5. The sittings of the Congress of State shall be opened and closed by the Captains Regent.
6. At the beginning of a sitting, the Minister of Internal Affairs shall inform the other members of the decisions adopted and those withdrawn during the previous sitting, in accordance with this Regulation.

The Congress of State shall agree on the way in which such task shall be performed in the most appropriate manner for the organisation of its works. A list of the decisions may also be drawn up and transmitted to the members of the Congress of State to enable them to make any observations.

### **Art. 3**

*(Convening procedures)*

1. The Congress of State shall be convened for ordinary, extraordinary or emergency sittings.
2. Ordinary sittings of the Congress of State shall take place once a week, usually on Monday. The sittings of the Congress of State shall be convened by the Executive Secretariat of the Congress of State through a specific notice indicating the date, time and place of the sitting, as well as the items on the agenda. The notice of the sitting shall be sent to the respective addresses of the members of the Congress of State, usually on Friday or by the day before the sitting.
3. The Captains Regent may convene an extraordinary sitting of the Congress of State to deal with matters of particular interest requiring a specific debate or to meet the needs of the Captains Regent or of the Congress of State.
4. With regard to the examination of matters for which the debate cannot be postponed, the Captains Regent may convene an urgent sitting (*ad horas*) of the Congress of State, even without any notice.

### **Art. 4**

*(Absence of the reporting or proposing Minister)*

1. In case of absence of the proposing or reporting member of the Congress of State, the examination of the proposals or of the matters falling within his/her competence may be postponed, unless another Minister has been delegated in advance to report on his/her behalf.

### **Art. 5**

*(Abstention from participation in a sitting)*

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

### **Art. 6**

*(Participation of external people)*

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

### **Art. 7**

*(Minutes of the sittings)*

1. Minutes of each sitting of the Congress of State shall be drawn up during the same sitting.
2. Secretariat functions shall be performed by the Minister of Internal Affairs, who shall usually draw up the minutes of the sittings.
3. In case of absence or temporary impediment of the Minister of Internal Affairs, he/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 sitting.
5. The minutes shall indicate: the date, start and end time of the sitting, the members present and absent, the issues discussed by the Congress of State, a brief report of the decisions and communications and an indication of any external people participating in a sitting pursuant to the preceding Article.
6. The minutes may be written by hand or by 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 to place items on the agenda)*

1. The items to be placed on the agenda shall usually be indicated by the Ministers during a previous sitting; however, an application to place a specific item on the agenda may be submitted, even at a later date, to the Captains Regent or the Minister of Internal Affairs.
2. The documents relating to the proposed items to be placed on 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 sitting is sent.

#### **Art. 9**

*(Keeping and publication of the minutes of the sittings)*

1. The minutes of the sittings 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, shall be handed over by the Minister to the Director of the Executive Secretariat of the Congress of State. The latter shall keep them and bind them in volumes.
2. The minutes of the Congress of State shall be confidential. They may be examined at any time at the Ministry of Internal Affairs by the Captains Regent in office and by the members of the Congress of State in office.
3. Subject to prior authorisation of the Minister of Internal Affairs, any external people who participated in a sitting pursuant to Article 6 may also examine the minutes, limited to the items placed on the agenda of the sitting to which the individual minutes refer and in which they participated.
4. Upon prior request to the Director of the Executive Secretariat of the Congress of State, former Captains Regent and former Ministers may at any time examine, at the offices of the Executive Secretariat of the Congress of State, the minutes of the sittings held during their mandate.
5. The Congress of State may authorise other persons to examine the minutes in relation to individual items on the agenda.

### **TITLE III DECISIONS AND LEGISLATIVE ACTS**

#### **Art. 10**

*(Content of decisions)*

1. Decisions shall contain all useful and necessary elements in relation to their nature and subject.
2. The preamble of decisions shall indicate the provisions at the basis of their adoption, and other provisions relating to their subject, as well the factual circumstances relevant to their adoption.

3. When a decision is issued following an administrative procedure, the preamble shall refer to all intermediate acts.
4. For reasons of practicality and economy of management, the text of decisions should not contain any technical data or technical regulations, which shall preferably be contained in attached documents.

#### **Art. 11**

##### *(Accompanying documents)*

1. If the decision refers to any documents (usually mentioned in the preamble to the decision and introduced by "having regard", "filed with the records" or "attached"), the proposing Ministry shall be required to send a copy of such documents by email to the Executive Secretariat of the Congress of State, together with the proposed decision to which they refer.
2. The Executive Secretariat of the Congress of State shall be required to keep all documents relating to each proposed decision received.
3. If the proposed decisions lack the accompanying documents, the Ministries shall transmit them 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 mentioned in the decision shall 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**

##### *(Attachments to decisions)*

1. If the decisions contain any attachments, these shall form an integral part thereof and, as such, shall be perfectly readable and numbered.
2. The attachments 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 any acts and documents that, although relating to the preparatory stage of the decision, are not an integral part thereof. 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 placed on the agenda)*

1. The proposed decision to be adopted shall be placed on the agenda attached to the notice of the sitting.
2. The submission of decisions not placed on the agenda shall be permitted in extraordinary and urgent cases, recognised as such by the Congress of State.
3. The text of the proposed decisions and the related documents shall be filed during the sitting.
4. The minute-taker shall note the adoption of such decisions in the list of agenda items of the proposing Ministry.
5. In case of adoption of a decision not placed on the agenda, such decision shall be sent to the Executive Secretariat of the Congress of State in the same manner as decisions placed on the agenda and shall meet all necessary requirements in order to be considered valid under 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 a decision confidential by using 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 register at the Executive Secretariat of the Congress of State by its Director and shall be consulted only by the Captains Regent and the Ministers in office, who shall be required to maintain confidentiality.

**Art. 15**  
*(Draft laws)*

1. Draft laws shall be drawn up by the competent Ministries and submitted by the Ministers to the Congress of State, which, through a decision, shall mandate the reporting Minister to carry out all subsequent procedures. The text of the draft law and of the accompanying report shall be filed with the records of the sitting.
2. The Congress of State may ratify the deposit of a draft law, for which the parliamentary procedure has already been initiated, for urgency reasons and approve it in the sitting subsequent to the date of its deposit with the Institutional Secretariat.

**Art. 16**  
*(Decrees)*

1. The preamble of decisions for the adoption of delegated decrees by the Congress of State under Art. 11 of Qualified Law no. 184/2005 shall indicate the reference delegating law or the relevant legislative source.
2. The preamble of decisions for the adoption of decree-laws by the Congress of State under Art. 12 of Qualified Law no. 184/2005 shall indicate the extraordinary circumstances of necessity and urgency justifying their adoption.
3. The texts of delegated decrees and decree-laws shall be attached to the relevant decisions, on pain of non-adoption by the Congress of State.

**Art. 17**  
*(Secondary legislation acts: regulations and orders)*

1. Secondary legislation acts shall regulate areas identified on the basis of law provisions and such power shall be exercised through the issuance of regulations and orders.
2. The preamble of decisions for the adoption of regulations by the Congress of State under Art. 13 of Qualified Law no. 184/2005 shall indicate the reference legislative provisions.
3. The texts of regulations shall be attached to the decision, on pain of non-adoption by the Congress of State.
4. The preamble of decisions for the adoption of orders by the Congress of State shall indicate the reference legislative provisions.

**Art. 18**  
*(Withdrawal of decisions)*

1. The decisions adopted by the Congress of State may be withdrawn by the competent Ministries before they are signed, by means of a written communication addressed to the Executive Secretariat of the Congress of State, which shall specify the reasons for the withdrawal.

**TITLE IV**  
**INVALIDITY AND IRREGULARITY OF LEGISLATIVE ACTS AND DECISIONS**

**Art. 19**

*(Corrections of and corrigenda to legislative acts)*

1. Through the Institutional Secretariat, the Minister of Internal Affairs shall correct clerical errors of delegated decrees, decree-laws and regulations. Corrigenda shall be publicly displayed and published in the Official Bulletin.
2. Corrigenda shall only be admitted in the event of a clerical error in the drafting of the final text of the decree, recognisable (*icto oculo*) through collation with the text of the decision or of the accompanying documents.
3. In cases where the clerical error found is not of the kind referred to in the preceding paragraph, the competent Ministry shall communicate the error to the Congress of State, which shall take note thereof and authorise the Minister of Internal Affairs to make a corrigendum.
4. In case of substantial error, the relevant legislative act may be modified either when it is ratified by the Great and General Council or by means of a subsequent act of the same kind adopted by the Congress of State.

**Art. 20**

*(Corrigenda to decisions in case of clerical error)*

1. The Director of the Executive Secretariat of the Congress of State shall correct clerical errors exclusively made in the drafting of the final text of a decision, which are clearly recognisable or resulting from collation with the text of the decision issued 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, which shall correct the errors of the first document and 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 any shorter time-limit envisaged for the possible request referred to in Article 18 of Law no. 68/1989.
2. The correction made shall be notified to the parties indicated in the abstract from the minutes. Copy of the decision shall be issued and published on the Internet website as corrected pursuant to this Article.
3. The Executive Secretariat of the Congress of State shall keep a specific register of corrigenda.

**Art. 21**

*(Correction of decisions)*

1. In the case of a substantial or clerical 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 placed on the agenda, in accordance with the procedures laid down in this Regulation, with the aim of correcting, amending or replacing a part of the act or supplementing the act with 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 such 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 therein.

**Art. 23**  
*(Suspension)*

1. The Congress of State may suspend a decision by adopting a subsequent decision. Suspension shall not annul a decision in terms of its validity and effectiveness; it shall interrupt *ex nunc*, i.e. not retroactively and temporarily, the enforcement of the act, and 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 upon occurrence of the event, upon which the duration is conditional.

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

1. Ratification shall occur when the Congress of State endorses 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. Preventive legitimacy control shall be a separate measure, although it is related to the drawing up and enforceability of the administrative act pursuant to the law.
2. A Congress of State decision subject to preventive legitimacy control shall be enforceable once the control body adopts the decision on its legitimacy.
3. Decisions subject to preventive legitimacy control shall be enforceable once the Administrative Judges of first instance adopts the decision on their legitimacy.

**Art. 26**  
*(Withdrawal of decisions before control)*

1. The Ministries may withdraw the decisions falling within their competence - which have been adopted by the Congress of State and transmitted to the control body pending a decision on their legitimacy - by means of a written and reasoned request addressed to the Executive Secretariat, which shall inform the control body thereof.
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 Monday or Tuesday, the Executive Secretariat of the Congress of State shall electronically draw up the agenda by the preceding Thursday. The agenda shall consist of the notice of the sitting, which shall indicate the items to be discussed, and of the proposed decisions accompanied by the attached documents.
2. On the agenda, the proposed decisions shall be divided by Ministry and shall be preceded by a list indicating their progressive number, the subject and the necessary spaces to note down

the approval, rejection or suspension, if any, of the proposed decision, as well as any necessary provisions, indications or corrections.

3. If an extraordinary or emergency sitting of the Congress of State is convened (*ad horas*), the procedure referred to in the preceding paragraphs shall be omitted. In this case, the minutes shall state the reasons for the convening of the extraordinary or emergency sitting.

#### **Art. 28**

*(Procedures for the transmission of the agenda)*

1. If an ordinary sitting is held on a Monday or Tuesday, the Executive Secretariat of the Congress of State shall transmit by e-mail the agenda to all Ministries and to the Captains Regent by 10.00 a.m. on the preceding Friday.

#### **Art. 29**

*(Proposed decisions)*

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

2. The Ministries shall transmit the relevant text 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 sitting of the Congress of State held on Monday or Tuesday, or within two working days preceding the sitting, if it is convened on a different day.

3. If a proposed decision is not sent to the Executive Secretariat of the Congress of State, as provided for in the above paragraph, such decision shall not be placed on the agenda.

4. Each Ministry shall indicate the person or persons responsible for drafting and transmitting the decision proposals, to whom the Executive Secretariat of the Congress of State shall refer for anything it may need.

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. In accordance with Article 5, paragraph 3 of Qualified Law no. 184/2005, the Executive Secretariat of the Congress of State shall draw up the text of Congress of State decisions.

2. After the sitting, 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 items submitted but not placed on the agenda, to the Director of the Executive Secretariat of the Congress of State or to the official delegated by the Director 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 clerical and technical corrections as indicated by the competent 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 merits of the act are necessary, they may be made by agreement between the Minister of Internal Affairs and the other Ministers, subject to notification to and ratification by the Congress of State at its subsequent sitting, unless the Congress of State has given its prior authorisation.

6. Without prejudice to the provisions of the preceding paragraphs, the Executive Secretariat of the Congress of State shall verify the indication and correctness of the legislative reference and shall ensure the correspondence between the text of the decision approved by the Congress of State and the text to be signed.

7. After receiving electronically any decisions not placed on the agenda from the competent Ministries, the Executive Secretariat of the Congress of State shall typeset the adopted decisions, number them progressively and control the texts, in order to correct any clerical errors and imperfections.

### **Art. 31**

#### *(Signing of decisions)*

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

2. Decisions shall usually be submitted for signature on the days immediately following the relevant sitting.

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/she shall be replaced by another Minister specifically appointed to this end by the Congress of State.

4. The Minister of Internal Affairs or, in case of impediment, another Minister specifically appointed to this end, shall initial all pages of the original decisions adopted, including the attachments forming an integral part thereof.

### **Art. 32**

#### *(Transmission of decisions)*

1. Once the decisions of the sitting have been signed by the Minister of Internal Affairs, the Executive Secretariat of the Congress of State shall electronically scan the decisions in a non-editable image format, and shall include them in an electronic archive.

2. The integral versions of the files of the decisions referred to in the preceding paragraph shall be sent by e-mail to the Captains Regent, to all 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 a certified copy of the texts of the decree-laws, delegated decrees and regulations adopted by the Congress of State to the Institutional Secretariat for their 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 thirty-day time-limit set forth 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 controls falling within its competence and required by law.

5. For the purposes of preventive legitimacy control, 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 a (peremptory) time-limit of 10 days from their issue.

6. The Executive Secretariat of the Congress of State shall send a photocopy of the decisions to the private parties indicated in the abstract from the minutes by ordinary mail or by registered letter with acknowledgement of receipt.

**Art. 33**

*(Additional requirements)*

1. The decisions adopted by the competent bodies responsible for 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 requirements set forth in Article 34 below, the Executive Secretariat of the Congress of State shall affix the stamp “non-enforceable” on the original copy of withdrawn decisions referred to in Article 26, paragraph 1 above, and on the decisions declared illegitimate by the control body, once this is formally notified.

**TITLE VII**

**KEEPING, CONSULTATION AND PUBLICATION OF DECISIONS**

**Art. 34**

*(Keeping and consultation of Congress of State decisions)*

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 of the text by the Minister of Internal Affairs - shall be collected in appropriate registers, consisting of numbered sheets bearing the stamp "Ministry of Internal Affairs". Congress of State decisions shall be chronologically ordered and progressively numbered by sitting. 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 that the Congress of State has expressly declared confidential in accordance with Article 15 above. Consultation shall be free of charge.
4. The modalities for the consultation and issue of uncertified copies of Congress of State decisions shall be established by the Executive Secretariat of the Congress of State, without prejudice to any restrictions imposed by the Director only with respect to the decisions referred to in Article 36, paragraph 3.

**Art. 35**

*(Issue of certified copies)*

1. The issue of certified copies of Congress of State decisions shall be permitted only for enforceable decisions, which 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 parties, for reasons other than study, shall be subject to the payment of a stamp duty, except for uses for which the laws in force envisage an exemption from stamp duties.
4. Certified copies of the decisions shall be issued in the manner established by the Executive Secretariat of the Congress of State, without prejudice to any restrictions imposed by the Director only with respect to the decisions referred to in Article 36, paragraph 3.
5. Certified copies of Congress of State decisions requested by public officials for reasons related to their office shall be exempt from all duties.

**Art. 36**

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

1. Decisions, with the exception of those expressly declared confidential by the Congress of State, shall be published and disseminated on the Internet 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 Internet 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 omit sensitive personal data, the processing of which has not been authorised in advance by the interested parties, in accordance with the legislation on the protection of confidentiality of personal data and the instructions of the Data Protection Authority.

**TITLE VIII FINAL PROVISIONS**

**Art. 37**

*(Amendments to this 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*