



## REPUBLIC OF SAN MARINO

### REGULATION no. 16 of 2 December 2015

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

Having regard to Congress of State Decision no. 18, adopted during its sitting of 21 October 2015;  
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:

#### REQUIREMENTS OF PUBLICITY, TRANSPARENCY AND DISSEMINATION OF INFORMATION BY THE ADMINISTRATION

##### Art.1

##### (Purpose and scope)

1. This Regulation shall lay down the rules for the application and implementation of the provisions contained in Articles 31, 33 and 34, paragraph 2 of Law no. 160 of 5 October 2011 "Law on administrative procedure and access to administrative documents" concerning the transparency of the actions of the Administration and the publicity and dissemination of information and administrative documents, and shall identify the procedures for their implementation.
2. For the purpose of promoting widespread forms of control over the pursuit of institutional functions and the use of public resources, and of preventing corruption and fostering the efficiency and effectiveness of administrative action, transparency shall be understood as total access to the information referred to in the following Articles.
3. The requirements concerning the publication and dissemination of documents provided for in the following Articles shall apply to the Administration, as defined in Article 1, paragraph 2, letter a) of Law no. 160/2011 and Article 3, paragraph 1, letter a) of Law no. 188 of 5 December 2011.
4. The provisions of this Regulation shall also apply to public or private persons providing a public service, in so far as they are compatible and without prejudice to special provisions.

##### Art.2

##### (Transparency of the organisation and activity of the Administration)

1. The following information on the organisation and activity of the Administration shall be fully accessible:

- a) regulatory and general administrative acts. The information on the following shall be timely published:
- 1) directives, circulars, instructions and, in particular, acts by which the criteria and procedures to be followed by the Administration are determined for the granting of benefits, contributions, subsidies and financial aid and for the attribution of any kind of economic advantages to private persons and entities;
  - 2) provisions, however named, that contain interpretations or explanatory notes of rules of law;
  - 3) codes of conduct;
  - 4) schedules indicating the dates of effectiveness of the newly introduced administrative obligations;
  - 5) charges introduced or eliminated by the aforementioned acts, on citizens, residents and businesses, concerning the collection, processing, transmission, retention and production of information and documents to the Administration;
  - 6) collective bargaining and agreements with trade unions;
- b) provisions on the organisation of the Administration. The information on the following shall be timely published:
- 1) collegial bodies of the State performing administrative and managing functions, indicating:
    - 1.1) details of the instruments of appointment and/or the legislative source of reference for the composition of the body;
    - 1.2) duration of the assignment and any related remuneration;
    - 1.3) responsibilities;
    - 1.4) available resources;
  - 2) holders of managerial positions. The information on the following shall be timely published:
    - 2.1) details of the act of assignment;
    - 2.2) curriculum vitae;
    - 2.3) remuneration;
  - 3) collaborators or consultants and trainers, technical and professional apprentices, interns. The information on the following shall be timely published:
    - 3.1) details of the act of assignment;
    - 3.2) curriculum vitae, for collaborators or consultants;
    - 3.3) remuneration, however denominated, with specific indication of any variable components;
    - 3.4) reason, purpose and duration of the assignment or of the training, apprenticeship or internship;
  - 4) structure and organisational model of the Overall Public Sector, as defined in Article 3, paragraph 1, letter b) of Law no. 188/2011 and of the collegial bodies referred to in letter b), point 1) of this Article with reference to:
    - 4.1) with regard to the Public Administration, as defined by Article 3, paragraph 1, letter c) of Law no. 188/2011, the organisation of the Departments, Organisational Units and bodies of the Civil Service with an indication of their respective missions and functions, and the available resources;
    - 4.2) with regard to Entities, as defined in Article 3, paragraph 1, letter d) of Law no. 188/2011, the internal organisational units with an indication of their respective functions and available resources;
    - 4.3) with regard to the collegial bodies referred to in letter b), point 1) of this Article, to their respective functions and available resources;
    - 4.4) legislative references regulating the establishment, organisation and activity of the bodies, offices, services, autonomous corporations and entities of the State with the relevant links to laws, decrees and regulations of the Congress of State published in the Great and General Council database;

- 5) a simplified description, for the purposes of full accessibility and comprehensibility of the information, of the organisation of the Administration with particular reference to the functional relations between bodies, offices, services, autonomous corporations and entities of the State, by means of the organisational chart or similar graphical representations;
- 6) a list of telephone numbers as well as institutional e-mail addresses which citizens may contact for any request concerning institutional duties;
- 7) information on staff requirements and the number of permanent staff or staff with an open-ended contract as well as staff with a fixed-term contract effectively in service, with an indication of the distribution among the various qualifications and Organisational Units/Departments/sectors of autonomous corporations and entities of the State and the related costs;
- 8) a list of the private companies and bodies in which the State, autonomous State corporations and entities directly own a sole or majority shareholding, indicating:
  - 8.1) the extent of the shareholding;
  - 8.2) total charge for the year on the budget of the State and/or of the autonomous State corporations and entities;
  - 8.3) number of representatives of the Administration in the governing bodies, offices of CEO and director conferred by the participated private company or entity and total remuneration to each of them;
  - 8.4) budgetary outcomes of the last three financial years;
  - 8.5) functions assigned and activities performed in favour of the Administration or entrusted public service activities;
  - 8.6) one or more graphical representations illustrating the relations between the Administration and the companies or entities in which it participates;
- c) provisions on the activity of the Administration. The information on the following shall be timely published:
  - 1) list of the activities/assignments declared compatible with public employment pursuant to Article 16, paragraph 3 of Law no. 108 of 31 July 2009 or Article 30, paragraph 3 of Law no. 41 of 22 December 1972 as well as the performance of professional activities for health personnel of the Social Security Institute pursuant to Articles 3, 14 and 15 of Decree no. 153 of 16 December 1991 and its implementing regulations;
  - 2) provisions, however denominated, containing the description of administrative procedures and related measures, to be published in a timely manner and in accordance with the provisions of Article 16, paragraphs 2 and 3 of Law no. 160/2011;
  - 3) aggregated data on administrative activity organised by sectors of activity, by responsibility of bodies and offices, by type of procedure and data on compliance with the deadlines for issuing measures pursuant to Article 6 of Law no. 160/2011;
  - 4) list of the types, obligations and fulfilments covered by the control activities to which companies are subject according to their size and sector of activity, indicating for each of them the criteria and the manner in which such control activities are carried out;
  - 5) list of services provided to users and average time taken to provide them, with reference to the previous financial year.

### Art.3

#### (Transparency of acts concerning the use of public resources)

1. The following information on acts and measures of the administration and on the use of public resources shall be fully accessible:
  - a) documents and annexes to the economic programme, the budgets and their variations and the statements and data on revenue and expenditure published in summary,

aggregated and simplified form, also with the use of graphical representations in order to ensure full accessibility and comprehensibility;

- b) information identifying the real estate owned and the rents paid or received;
- c) decisions, together with the acts to which they relate, issued by the bodies responsible for prior and subsequent, accounting and administrative legitimacy control, concerning acts and measures relating to expenditure and personnel management;
- d) indicators of average times for payment relating to the purchase of goods, services and supplies, procurement for works, and the assignment of professional, collaboration and consultancy positions.

#### Art.4

##### (Transparency of acts and measures in special sectors)

1. The following information on the following sectors shall be accessible:
  - a) administrative acts and measures relating to the public procurement of works, services and supplies, as provided for in the relevant special rules;
  - b) planning in the sector of public works, indicating for each work the description of the main characteristics of the work, the location, urban forecasts and the presumptive amount of expenditure;
  - c) acts and measures relating to the general and detailed planning of the territory, in accordance with Articles 3 and 4 of Law no. 87 of 19 July 1995 and Chapter II of Law no. 107 of 3 October 2007, respectively;
  - d) information relating to the environmental sector, in accordance with Chapter II of Title VIII of Delegated Decree no. 44 of 27 April 2012 "Environmental Code";
  - e) information on health, socio-health and socio-educational services. The following shall be published and updated annually:
    - 1) Health Plan, Socio-Health Plan and Socio-Educational Plan;
    - 2) additional documents related to planning referred to in Articles 4 and 5 of Law no. 165 of 30 November 2004;
    - 3) list of public and private health, socio-health and socio-educational facilities authorised and accredited pursuant to Laws no. 68 and no. 69 of 25 May 2004, and subsequent amendments;
    - 4) waiting times for each of the types of services provided by the health service and other indicators set out in the Health Plan.

#### Art.5

##### (Administrative procedures and measures)

1. The summary table referred to in Article 16, paragraphs 2 and 3 of Law no. 160/2011 shall indicate the following information for each type of procedure:
  - a) brief description of the procedures with an indication of all relevant legislative references;
  - b) Organisational Unit/Department/internal unit of autonomous corporations and entities of the State responsible for the preparatory stage;
  - c) name of the person in charge of the procedure, together with his or her telephone numbers and institutional e-mail address, as well as, where different, the office responsible for adopting the final measure, with an indication of the name of the head of the office, together with his or her telephone numbers and institutional e-mail address;
  - d) for procedures started upon request of a party, acts and documents to be attached to the request and the necessary forms, including facsimiles for declarations in lieu of certificates, as well as the offices to contact

for information, timetables and methods of access with an indication of the addresses, telephone numbers and institutional e-mail addresses to which requests may be submitted;

- e) modalities by which interested parties may obtain information on ongoing procedures concerning them;
- f) time-limit laid down in the relevant legislation governing the procedure for its conclusion through the adoption of an explicit measure and any other relevant time-limit for the procedure;
- g) procedures for which the measure may be replaced by a declaration by the person concerned or which may be concluded with the silent consent of the Administration;
- h) instruments of administrative and jurisdictional protection recognised by law in favour of the interested party, during the procedures and with regard to the final measure or in cases of adoption of the measure beyond the predetermined time limit for its conclusion and modalities for implementing such instruments;
- i) connection for access to the online service, if it is already available online, or the timeframe for its activation;
- l) modalities for making payments with the mandatory indication of the payment identification codes and further necessary information;
- m) the name of the person to whom, in the event of inactivity, the substitution power is attributed, as well as the modalities for exercising such power, with an indication of the telephone numbers and institutional e-mail addresses;
- n) results of the citizens' satisfaction surveys with regard to the quality of the services provided as established by Article 26, paragraph 1, letter c) of Law no. 188/2011;
- o) modalities for the performance of checks by the Administration on the declarations in lieu of certificates referred to in Law no. 159 of 5 October 2011.

2. The Administration shall not require the use of forms that have not been published. In the event of non-publication, the relevant procedures may be initiated even in the absence of such forms. The Administration shall not reject the request on the ground that the forms have not been used or that such acts or documents have not been submitted, and shall invite the requesting party to integrate the documentation within a reasonable period of time.

3. Furthermore, the lists of measures adopted by the political bodies and directors shall be fully accessible, with particular reference to the final measures of the procedures of:

- a) authorisation or granting;
- b) competition and recruitment announcements referred to in Law no. 107 of 31 July 2009 and related Delegated Decree no. 106 of 2 August 2012 and final ranked lists and acts relating to career advancement. The Administration shall publish and keep constantly updated the list of ongoing competitions and recruitments as well as the list of competitions and recruitments carried out during the last three years, together with the number of employees hired for each of them;
- c) acts related to the granting of benefits, contributions, subsidies and financial aid and to the attribution of any kind of economic advantages to public and private persons and entities. The information relating to these acts shall be organised annually in a single list for each individual Organisational Unit/Department/internal unit of autonomous corporations and entities of the State and shall include:
  - 1) the amount of the economic advantage paid; 2) the rule or act on which the granting is based;
  - 3) competent office and/or body and official or director responsible for the relevant procedures and administrative measure;
  - 4) modality adopted for the identification of the beneficiary.

4. For each of the acts and measures referred to in paragraph 3, the content, the subject matter, any expenditure envisaged and the details of the main documents contained in the

file relating to the procedure shall be published. Publication shall take place by means of a summary sheet, prepared during the drawing up of the document containing the act.

5. The acts and documents referred to in paragraph 3 shall be published without prejudice to the limits set out in Article 30 of Law no. 160/2011. Name or personal data, references or information, as referred to in Article 3, paragraph 1, letter a) of Law no. 70 of 23 May 1995, which may be contained in the documents, shall be concealed or processed in such a way as to make it impossible to identify the persons mentioned in them, unless they have agreed thereto.

#### Art.6

##### (Publication and dissemination of further information)

1. The bodies, offices, services, autonomous corporations and entities of the State that make up the Administration may publish on their institutional websites data, information and documents that they are not obliged to publish pursuant to the above articles or on the basis of specific legislative or regulatory provisions, without prejudice to the limits and conditions expressly provided for by the regulatory provisions on the computerised processing of personal data, and they shall anonymise any personal data present in accordance with the provisions of Article 31, paragraph 3 of Law no. 160/2011.

#### Art. 7

##### (Person in charge of transparency)

1. As a general rule, officials holding the position of directors shall be in charge of transparency in relation to the publication and dissemination requirements applicable to the offices, services, internal organisational units of autonomous corporations and entities of the State managed by them, unless this function is delegated to employees holding the position of operational unit managers.
2. Officials holding the position of directors shall also be in charge of transparency in relation to the obligations imposed on State bodies referred to in Article 2, paragraph 1, letter b), point 1), which are related to the administrative sector for which they are responsible.

#### Art.8

##### (Modalities of publication)

1. All documents, information and data to be published in accordance with the above articles shall be public and anyone shall have the right to know and use them freely in accordance with Article 33 of Law no. 160/2011, with the obligation to mention the source and respect their integrity.
2. For the purposes of Article 31 of Law no. 160/2011, of this Regulation and without prejudice to the rules on the publication in the Official Bulletin, the publication shall be made in an open format on the Administration's institutional websites. Anyone shall have the right to access such sites directly and immediately, without any need for authentication and identification.
3. Open format shall mean a data format, made public, comprehensively documented and neutral with respect to the technological means required to use the data. 4. Open data shall mean data with the following characteristics:
  - a) they are available pursuant to the terms of a licence allowing anyone to use them, including for commercial purposes, in disaggregated format;
  - b) they are accessible by means of information and communication technologies, including public and private telematic networks, in open formats as defined in letter a), they are suitable for automatic use by computer programs and are accompanied by the relevant metadata;

- c) they are made available free of charge by means of information and communication technologies, including public and private telematic networks, or are made available at the marginal costs incurred for their reproduction and dissemination. The Technical Commission for Technological Innovation may establish, by its own decision, the exceptional cases, identified according to objective, transparent and verifiable criteria, in which such data are made available at prices higher than the marginal costs.
5. The publication may be carried out, by order of the Directorate General of Civil Service (DGFP), jointly or as an alternative to the modality referred to in paragraph 2, also through posting on the notice boards of the offices, services, autonomous corporations and entities of the Overall Public Sector.
6. This shall be without prejudice to further forms of publicity and dissemination of administrative documents provided for by special rules that are to be considered supplementary to the modalities set out in paragraphs 1 and 2.

Art.9  
(Civic Access)

1. The obligation of the Administration to publish documents, information or data as set out in the above articles shall entail the right of anyone to request them, in cases where their publication has not been carried out, through civic access in accordance with the provisions of this Article.
2. The request for civic access shall not be subject to any limitation, while the subjective legitimacy of the requesting party shall not be reasoned, it shall be free of charge and shall be submitted to the person identified as the Person in charge of transparency, who shall report the request to the DGFP for the purposes of Article 11.
3. Within thirty days, the body, office, service, autonomous corporation and entity of the State shall publish the requested document, information or data on the website and shall notify the requesting party that such publication has taken place, indicating the hyperlink to what has been requested. If the requested document, information or data have already been published in accordance with the legislation in force, the requesting party shall be provided with the relevant hyperlink.
4. In cases of delay or failure to reply, the requesting party may proceed pursuant to Article 10, paragraph 2 of Law no. 68 of 28 June 1989 or turn to the DGFP, which, after verifying the existence of the obligation to publish, shall proceed pursuant to paragraph 3 within thirty days.
5. The DGFP shall also be responsible for assessing the request for civic access in cases where it has not been possible for the requesting party to identify the Person in charge of transparency; in such cases, the DGFP shall act pursuant to paragraph 3 within thirty days.
6. The protection of the right of civic access shall be governed by the provisions of Law no. 68/1989, and any measure limiting, deferring or denying civic access to documents in relation to which the Administration considers that the limits set out in Article 30 of Law no. 160/2011 exist, may be appealed against through administrative judicial procedure.

Art.10  
(Quality of information and duration of the requirement to publish)

1. The Administration shall ensure the quality of the information on the institutional websites in compliance with the requirement to publish laid down in the above articles, ensuring its integrity, constant updating, completeness, timeliness, easy consultation, comprehensibility, homogeneity, easy accessibility, consistency with the original documents held by the Administration, the indication of its provenance and its usability in accordance with Article 33 of Law no. 160/2011.

2. The need to ensure an adequate quality of the information disseminated shall not, in any case, constitute grounds for failing to publish or delaying the publication of data, information and documents.
3. The data, information and documents subject to publication pursuant to the above articles shall be published for a period of five years, starting from 1 January of the year following that in which the requirement to publish starts to run, and in any case until the published acts produce their effects.
4. Also for the purposes of the provisions of Article 21, paragraph 3 of Law no. 141 of 5 September 2014, the data referred to in Article 2, paragraph 1, letter b), points 2) and 3) shall be published for the two years following the termination of the employment relationship.

#### Art.11

##### (Controls, supervision and sanctions)

1. The DGFP shall verify, through the Internal and External Communication Service, that the requirements to publish laid down in Article 31 of Law no. 160/2011, in this Regulation and in special laws are met, as well as the compliance with the guidelines set out in Article 12, paragraphs 1 and 2 below, by bodies, offices, services, autonomous corporations and entities of the State. To this end, it shall exercise its powers of inspection by means of requests for updates, information and documents and orders to adopt acts or measures or to correct conducts or acts in conflict with the rules on transparency.
2. Non-fulfilment or partial fulfilment of the requirements to publish, as well as non-compliance with the guidelines referred to in Article 12, paragraphs 1 and 2 below, shall constitute, depending on its seriousness, a violation of the duties of the director or, in cases where the function of Person in charge of transparency has been delegated, of the person responsible for the publication and dissemination of information, and it shall be punished in accordance with the applicable rules. This violation shall also constitute an element of assessment of the work of the director or of the Person in charge of transparency and a possible cause of liability for damage to the image of the Administration.
3. In the performance of the duties referred to in paragraph 1 of this Article and in Article 12, paragraphs 1 and 2 below, the DGFP shall exercise vertical functions vis-à-vis the Directors and Managers of the autonomous State corporations and entities.
4. The director or Person in charge of transparency shall not be liable for non-compliance with the requirements referred to in paragraph 1 if he/she proves that such non-compliance was due to a cause not attributable to him/her.
5. The DGFP shall also report non-compliance or partial compliance with the requirements to publish to the Congress of State.

#### Art.12

##### (Final Provisions)

1. Through the Internal and External Communication Service, the DGFP shall define standard criteria, models and schemes for the organisation, codification and representation of documents, information and data to be published pursuant to Article 31 of Law no. 160/2011, this Regulation and special rules, after consulting, until its replacement by the User Data Protection Supervisor, the Guarantor for the protection of the confidentiality of personal data pursuant to Article 15 of Law no. 70/1995.
2. Pursuant to Article 23, paragraph 3, letters b) and f) of Law no. 188/2011, the DGFP shall have the power to issue directives, guidelines and circulars for the implementation of this Regulation and to monitor compliance therewith, with particular reference to the need to ensure the easy accessibility of the data published on institutional websites, also through the implementation of the web portal of the Public Administration.



3. The bodies, offices, services, autonomous corporations and entities of the State, in fulfilling their requirements to publish, shall comply with the standards, models and schemes referred to in paragraph 1 and with the guidelines referred to in paragraph 2.
4. The publication of the documents referred to in Article 31 of Law no. 160/2011 and in the articles above shall be finalised within one hundred and eighty days of the entry into force of this Regulation.

Done at Our Residence, on 2 December 2015/1715 since the Foundation of the Republic.

THE CAPTAINS REGENT  
Lorella Stefanelli - Nicola Renzi

THE MINISTER OF INTERNAL  
AFFAIRS  
Gian Carlo Venturini