

LAW NO. 165 of 30 November 2004

REPUBLIC OF SAN MARINO

Reorganisation of the institutional and management bodies of the Social Security Institute

We the Captains Regent

of the Most Serene Republic of San Marino

Hereby promulgate and order the publication of the following Law, approved by the Great and General Council during its sitting of 30 November 2004.

Title I -

General provisions

Art. 1

(Purposes)

This Law shall regulate the instruments, the procedures of the health and socio-health planning, the organisation of the health, socio-health and social security system of the Republic of San Marino, in compliance with the citizens' rights and the principle of social control.

Art. 2

(Definitions)

For the purposes of this Law:

1. strategic planning shall mean the set of system objectives and main strategic lines over a medium to long term time frame (3 years);
2. programming shall mean the set of systems that enable the planning of objectives, activities over a short-term time frame (1 year);
3. budget shall mean the system of allocating objectives and resources to an organisational unit.

Art. 3

(Bodies of the system)

The bodies of the health and social health system shall be:

1. Social Security Institute (see Title II - Chapter I)
2. Social and Health Council (see Title II - Chapter II)
3. Social Security Council (see Title II - Chapter III)
4. Authority (regulated by Law no. 69 of 25 May 2004)

Art. 4

(Health and socio-health planning and programming process)

The health and socio-health planning system shall provide for the preparation of a Health Plan and a Socio-Health Plan, which shall be adopted by the Congress of State, after obtaining the opinion of the Social and Health Council referred to in Article 24, and shall be approved by the Great and General Council.

The Plans shall be prepared by the Congress of State, based on the general guidelines of the Great and General Council, with the technical support of the Authority.

The Plans shall specify the objectives that the Republic of San Marino intends to achieve over the three-year period, the main policies and actions to achieve them and the financial resources foreseeably available.

On the basis of the Health Plan and the Socio-Health Plan, the Congress of State shall annually issue the guidelines for the corporate planning of the Social Security Institute.

The Social Security Institute, on the basis of the guidelines received, shall prepare the planning acts referred to in the following Article.

The acts shall be submitted to the Social and Health Council and the Social Security Council for a mandatory opinion and then approved by the Congress of State.

Art. 5

(Social Security Institute's Programming Documents)

The main programming documents of the Social Security Institute shall be:

- the general budget of the Institute, as a management control tool;
- the Staffing Plan, as a tool through which the Institute defines its staffing needs;
- the Investment Plan, as a tool highlighting the ordinary and extraordinary investments to be made for the coming year, any disinvestments, and the financial and monetary effects of investments and disinvestments.

Title II

Bodies of the system

Chapter I

Social Security Institute

Art. 6

Legal personality

Through the Social Security Institute, a State entity with autonomous administrative management, the State shall ensure the provision of health services, socio-health services, assistance services and welfare services within the framework of the policies defined by the Great and General Council and on the basis of the policy choices defined in Article 4 of this Law.

The Social Security Institute shall be a public-law entity with managerial autonomy and shall carry out its activities through its own structures and by availing itself of the cooperation of other public and private entities, within the regulatory framework established by law.

Art. 7

(Bodies)

The bodies of the Social Security Institute shall be: the Director General, the Executive Committee, the Board of Statutory Auditors, the Social Security Council, the Social and Health Council.

The bodies of the Social Security Institute shall be liable for any economic damage caused to the Institute through wilful misconduct and gross negligence. In particular, the members of the Executive Committee shall be required to perform their duties in such a way as to ensure the smooth running of activities; to comply with the laws and regulations; to act with rectitude, ability, good performance and loyalty; to achieve the objectives set out in the programming documents.

In addition to the incompatibilities established by this Law for each specific Body, the following shall be incompatible with any office in the Bodies of the Social Security Institute:

1. employees of the Social Security Institute, excluding members of the Executive Committee;
2. Directors, Auditors and employees of banks and financial companies;
3. Directors, Auditors and employees of companies and entities, persons holding a license and exercising economic activities in the fields of sale, manufacturing, management of healthcare equipment, private hospitals, reception facilities.

The members of the Bodies shall not take part in any discussions, decisions, acts, contracts and measures in which they, or their blood relatives or relatives by affinity up to the second degree, have a personal interest.

Art. 8

(Management powers)

The management of the Institute shall be entrusted to the Director General, who shall have all managing powers, except for the acts and competences entrusted by law to the Executive Committee.

Art. 9

(Appointment and composition of bodies)

The Director General shall be appointed by the Congress of State, shall hold office for three years and may be re-appointed for another three-year term or for a shorter period if appropriate and agreed among the parties.

The Executive Committee shall be composed of the Director General, the Administrative Director and the Director of Health and Socio-Health Activities referred to in Articles 11, 12 and 13.

The Board of Statutory Auditors shall consist of three members appointed by the Great and General Council for a five-year term. One member shall be indicated by the Parliamentary Groups, one by employees' trade unions and one by professional associations. The Chairman shall be elected from among the members of the body at the first meeting.

The members of the Board of Statutory Auditors shall be registered in the Register of Chartered Accountants and Accounting Experts or in the Register of Lawyers and Notaries.

The Social Security Council shall consist of eight members appointed by the Great and General Council. Two members shall be indicated by employees' trade unions and two by professional associations of employers and self-employed people. Members shall hold office for five years.

The Social and Health Council shall consist of eight members appointed by the Great and General Council. Two members shall be indicated by employees' trade unions and two by professional associations of employers and self-employed people. Members shall hold office for five years.

Art. 10

(Coordinators of the Social and Health Council and of the Social Security Council)

The Social and Health Council and the Social Security Council shall appoint a Coordinator from among their members who shall convene the meetings. The Coordinator of the Social Security Council shall be appointed from among the members indicated by the employees' trade unions and the professional associations of employers and self-employed people. The Coordinator of the Social and Health Council shall be appointed from among the members indicated by the Parliamentary Groups.

Art. 11

(Director General)

The Director General shall be the legal representative of the Institute and shall exercise all management powers with the exception of the acts and competences entrusted by law to the Executive Committee.

The Director General shall convene and chair the Executive Committee.

He/she shall exercise the function of Head of Personnel of the Social Security Institute. He/she shall also manage public lists for assignments, replacements and substitutions of health and socio-health personnel, according to the instructions to be issued by the Labour Office.

Staff employed by the Social Security Institute with a public employment relationship shall be hired within the limits of the Health Department's personnel.

In order to provide specialist services or for professional activities that are not available in San Marino, the Executive Committee may authorise the Director General to conclude agreements.

The Executive Committee may also authorise the Director General, in cases of particular need or urgency related to the operation of health and socio-health services, to conclude fixed-term agreements. It may also authorise the Director General, for special conditions of temporary or otherwise non-permanent work, to conclude agreements within the framework of the laws of the Public Administration, for the recruitment of personnel.

The Director General shall propose the appointment of the Administrative Director and the Director of Health and Socio-Health Activities to the Congress of State, which shall decide thereon.

In the exercise of his/her functions, he/she shall be assisted by the Administrative Director and the Director of Health and Socio-Health Activities.

The Director General shall be personally accountable for everything concerning the technical and administrative operation of the Social Security Institute within the limits of his/her powers.

The liability of the Director General shall not exempt employees from any liability that they may personally incur for their actions and omissions, taking into account the powers and duties of each of them.

The Director General shall be hired on the basis of a specific employment contract, which shall govern the regulatory and economic aspects. He/she shall work full-time for the Social Security Institute.

His/her functions shall be incompatible with any other employment, trade, industry and profession, and he/she shall not be a member of the Great and General Council.

In the event of his/her planned absence, he/she may delegate his/her functions to another member of the Executive Committee. In the event of his/her unforeseen absence, he/she shall be replaced by the Administrative Director or in the latter's absence by the Director of Health and Socio-Health Activities.

He/she shall be required to attend the meetings of the Social and Health Council or of the Social Security Council in an advisory capacity.

Educational and professional qualifications are listed in Annex A to this Law.

Art. 12

(Administrative Director)

The Administrative Director shall collaborate with the Director General in the performance of his/her duties and shall be specifically responsible for the area relating to administrative services and logistical and organisational support, as well as all activities relating to the welfare sector.

The Administrative Director shall be hired on the basis of a specific employment contract, which shall govern the regulatory and economic aspects pursuant to Article 11 of this Law. He/she shall work full-time for the Social Security Institute.

His/her functions shall be incompatible with any other employment, trade, industry and profession, and he/she shall not be a member of the Great and General Council.

Educational and professional qualifications are listed in Annex A to this Law.

Art. 13

(Director of Health and Socio-Health Activities)

The Director of Health and Socio-Health Activities shall collaborate with the Director General in the performance of his/her duties and shall be specifically responsible for the area relating to health and socio-health activities.

The Director of Social and Socio-Health Activities shall be hired on the basis of a specific employment contract, which shall govern the regulatory and economic aspects pursuant to Article 11 of this Law. He/she shall work full-time for the Social Security Institute.

His/her functions shall be incompatible with any other employment, trade, industry and profession, and he/she shall not be a member of the Great and General Council.

Educational and professional qualifications are listed in Annex A to this Law.

Art. 14

(Competences of the Executive Committee)

The management acts and competences entrusted to the Executive Committee shall be:

- a. preparing the annual budget and any changes thereto for subsequent approval by the Great and General Council;
- b. preparing the balance sheet for subsequent approval by the Great and General Council;
- c. approving the quarterly report on the verification of deviations from budget targets;
- d. approving the Institute's Investment Plan for subsequent decision by the Congress of State;
- e. approving the Institute's Staffing Plan for subsequent decision by the Congress of State;
- f. approving the administrative accounting regulations and the internal regulations of the various services;
- g. assessing citizens' requests, on which it shall be required to give a reasoned reply within forty-five days, after hearing the competent offices and bodies and on the basis of a Regulation to be issued after consulting the Social and Health Council and the Social Security Council;
- h. exercising, to the extent not provided for in the preceding points, the other functions delegated to the Board of Directors by the laws and regulations in force.

The documents referred to in a), b), c), d) and e), which will be accompanied by a specific report, shall contain the opinions expressed by the Social and Health Council and the Social Security Council for the matters falling within their competence.

Annually, the Executive Committee shall draw up a detailed report on the management activities and objectives achieved on the basis of the programming documents, which shall be sent to the Great and General Council for its discussion during the examination of the Balance Sheet.

In addition, the Executive Committee shall be required to send all its decisions to the Social Security Council and the Social and Health Council, for the part falling within their competence.

Appeals in health and socio-health matters submitted to the Executive Committee shall be considered appeals through non-judicial procedure pursuant to Article 12 of Law no. 68 of 28 June 1989 and shall therefore be subject to all the procedures of such Law.

Appeals in pension matters shall be examined by the Social Security Council pursuant to Article 25 below.

Art. 15

(Revocation, removal from office and resignation of members of the Executive Committee)

The Congress of State may revoke the appointment of members of the Executive Committee.

Failure to achieve budget targets, not caused by objective impediments, may be grounds for revocation of the appointment of members of the Executive Committee.

In the event of revocation of the appointment or removal from office of the Director General, the appointments of the other members shall be simultaneously and automatically revoked or the members shall be removed from office.

In the event of revocation of the appointment or removal from office of the Administrative Director or the Director of Health and Socio-Health Activities, the Congress of State shall replace them.

In the event of voluntary resignation, the members shall remain in office until they are replaced by the Congress of State.

Art. 16

(Replacement of the members of the Executive Committee)

Members shall be immediately replaced after the vacancy has occurred.

Replacements shall take effect from the date of appointment of the replacing members by the Congress of State. The replacing members shall remain in office until the expiry of their predecessors' term.

Art. 17

(Convening of the sittings of the Executive Committee)

The Committee shall meet in ordinary session at least once a month. It shall meet in extraordinary session either at the invitation of the Director General or at the request of at least two members of the Committee.

The Director General may invite to the meetings of the Executive Committee the Directors and Officials of the Social Security Institute who are competent for the matters on the agenda, the Minister responsible for Health, Social Security and Welfare or his/her delegate, and the Board of Statutory Auditors.

The members of the Committee shall not take part in any discussions, decisions, acts, contracts or measures in which they, or their blood relatives or relatives by affinity up to the second degree, have a personal interest.

Art. 18

(Validity of the sittings of the Executive Committee)

The presence of the Director General and at least one Director shall be required for the meetings of the Committee to be valid.

The Committee shall decide by an absolute majority of members. In the event of a tie, the Director General shall have the casting vote.

Art. 19

(Special assignments to members of the Executive Committee)

The Committee may assign special tasks to its members within the scope of its competences, including taking the minutes of the sittings.

Art. 20

(Board of Statutory Auditors)

The members of the Board of Statutory Auditors shall be appointed by the Great and General

Council, shall hold office for five years and may be reappointed.

The Board of Statutory Auditors shall consist of three members, among whom the Chairman shall be elected at the first meeting.

The Board of Statutory Auditors shall exercise its functions for all areas of management of the Institute and shall have the following tasks:

- supervising the administrative and accounting regularity of the Social Security Institute;
- monitoring compliance with laws and the principles of sound administration;
- checking financial management and that the balance sheet complies with accounting records;
- conduct inspections and cash checks;
- carrying out quarterly checks on the performance of the Social Security Institute and drawing up the relevant report;
- auditing financial statements and report thereon to the Executive Committee by preparing a relevant report.

For the performance of the members' functions, the Congress of State shall establish, in addition to the reimbursement of any expenses incurred, a monthly allowance.

Art. 21

(Revocation, removal from office and resignation of members of the Board of Statutory Auditors)

Members of the Board of Statutory Auditors who fail to attend, without a justified reason, three consecutive meetings or are in a situation of incompatibility shall be removed from office.

The appointment of members whose conduct is detrimental to the interests of the Social Security Institute shall be revoked.

Removal from office and revocation shall be declared by the Great and General Council on the proposal of the Congress of State at the first useful sitting following the Decision adopted by the Congress of State, which shall be required to decide immediately on the report of the Board or on the communication of the facts giving rise to revocation.

The Board, when notified of the measure of removal from office or revocation, shall notify the person concerned of the measure, which shall have immediate suspensive effect.

The Board shall take note of resignations of its members and shall notify the Congress of State thereof.

Resigning members shall remain in office until their replacement by the Great and General Council.

Art. 22

(Replacement of members of the Board of Statutory Auditors)

Members shall be immediately replaced after the vacancy has occurred.

The Chairman of the Board of Statutory Auditors shall be obliged to notify the Congress of State of any vacancies within five days of their occurrence.

Replacements shall take effect from the date of their approval by the Great and General Council.

Replacing members shall remain in office as long as their predecessors would have.

Art. 23

(Conditions of incompatibility of the members of the Board of Statutory Auditors)

Employees of the Social Security Institute or related sectors shall be incompatible with the position of member of the Board of Statutory Auditors.

CHAPTER II

Social and Health Council

Art. 24

(Functions of the Social and Health Council)

The Social and Health Council shall advise the Congress of State on health and socio-health planning instruments and the fundamental acts of the Social Security Institute.

The Congress of State shall request the Social and Health Council to provide its mandatory opinion on the following:

- Health Plan and Socio-Health Plan;
- Budget of the Social Security Institute for the part falling within its competence;
- Staffing Plan of the Social Security Institute;
- Investment Plan of the Social Security Institute for the part falling within its competence.

The Minister of Health and Social Security or his/her delegate shall participate in the sittings of the Social and Health Council in an advisory capacity.

Chapter III

Social Security Council

Art. 25

(Functions of the Social Security Council)

The Social Security Council shall perform the functions of management of the welfare system and of the related funds, including the examination of appeals, already assigned to the Board of Directors of the Social Security Institute by the regulations in force.

It shall also advise the Congress of State on welfare planning tools and the fundamental acts of the Social Security Institute.

The Congress of State shall request the Social Security Council to provide its mandatory opinion on the following:

- Budget of the Social Security Institute for the part falling within its competence;
- Investment Plan of the Social Security Institute for the part falling within its competence.

The Minister responsible for Social Security or his/her delegate shall participate in the sittings of the Social Security Council in an advisory capacity.

CHAPTER IV

Provisions common to the Social and Health Council and the Social Security Council

Art. 26

(Appointments, incompatibilities and convening)

The members of the Social and Health Council and the Social Security Council shall be appointed by the Great and General Council, shall hold office for five years and may be reappointed.

Employees of the Social Security Institute or related sectors, as well as members of the Great and General Council, shall be incompatible with the position of member of the Social and Health Council and the Social Security Council.

The respective Coordinators shall be responsible for drawing up the notices of the sitting containing the agenda thereof and for sending them at least five days in advance.

In cases of justified urgency, the Social and Health Council and the Social Security Council may also meet on the same day when the notice of the sitting is sent.

Art. 27

(Validity of the sittings)

An absolute majority of the members of the Social and Health Council and the Social Security Council shall be required for their sittings to be valid.

The Social and Health Council and the Social Security Council shall decide by an absolute majority of votes. In the event of a tie, the respective Coordinators shall have the casting vote.

The Coordinators may invite the Directors and Officials of the Social Security Institute competent for the matters under discussion to the sittings.

The Executive Committee shall be required to provide the Social and Health Council and the Social Security Council with the administrative technical support necessary to perform the functions provided for by law.

Art. 28

(Minutes of the sittings)

The minutes of the sittings shall be taken by a member appointed to act as secretary.

The minutes shall be approved at the immediately following sitting.

In cases of urgency, decisions may be declared immediately enforceable.

Copies of the minutes may be issued to the members of the Social and Health Council and the Social Security Council, as well as to those members of the Great and General Council who request them.

Art. 29

(Remuneration of members)

For the performance of their functions, the Congress of State shall establish, in addition to the reimbursement of any expenses incurred, a monthly allowance in favour of the members of the Social and Health Council and the Social Security Council.

Title III

Financing

Art. 30

(Financing modalities)

The Social Security Institute shall be financed through the collection of contributions, taxes and State funding in the modalities established by laws, as well as from donations, income from economic activities and services.

Title IV

Transitional and final provisions

Art. 31

(Repeal)

Law no. 105 of 19 September 1990, and any other law, provision or regulation contrary to this Law shall be repealed.

Art. 32

(Transitional provisions)

Until the bodies referred to in this Law are established, the existing ones shall remain in office with their current functions.

Within 120 days of the entry into force of this Law, a Regency Decree shall be issued containing a special provision to reorganise the competences and functions of the staff, in particular the Directors, which shall provide for responsibilities, competences and functions. The Decree shall be issued on proposal of the Executive Committee, which may avail itself, for this purpose, of Officials of the Departments of Finance, Internal Affairs and Health, designated by the Congress of State.

The Bodies of the Social Security Institute in joint session shall adopt a code of self-discipline.

The separation of powers in health and socio-health matters from those in welfare matters, of the various Bodies of the Social Security Institute, shall not entail the separation of offices and general administrative functions.

Art. 33

(Entry into force)

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

Done at Our Residence, on 2 December 2004/1704 since the Foundation of the Republic.

THE CAPTAINS REGENT

Giuseppe Arzilli - Roberto Raschi

THE MINISTER OF
INTERNAL AFFAIRS

Loris Francini

ANNEX A

MEMBERS OF THE EXECUTIVE COMMITTEE

Common provisions:

- enjoying civil and political rights;
- not having been convicted by a criminal judgement of a crime committed intentionally and punished with more than one year's restriction of personal liberty or disqualification from public offices, to be demonstrated by submitting the criminal record;

1. DIRECTOR GENERAL

- Degree obtained since at least five years;
- Master's degree or specialisation;
- At least five years' experience in the management of complex healthcare facilities;

1. ADMINISTRATIVE DIRECTOR

- Degree in economic, legal and social subjects obtained since at least five years;
- At least five years' management experience.

1. DIRECTOR OF HEALTH AND SOCIO-HEALTH ACTIVITIES

- Degree in Medicine and Surgery obtained since at least five years;
- Specialisation in Public Hygiene or at least five years' experience as head physician or at least five years' management experience.