



Law no.15 of 26 January 1990 (published on 14 February 1990)

Regulating Military Staff and Discipline

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 26 January 1990.

TITLE I

MILITARY INSTITUTIONS

Art. 1

The Fortress Guard (Artillery and Uniformed Unit), the Militia to which the Military Band belongs, the Guard of the Great and General Council and the Gendarmerie, shall constitute the Military Corps of the Republic of San Marino.

In accordance with the solemn oath referred to in Article 6, the high duty of the Military Corps shall be loyalty to the Republic, defence of its institutions, compliance with the laws, and obedience with a sense of discipline to lawful orders received.

Art. 2

The Military Corps shall be under the supreme authority of the pro-tempore Captains Regent, the Great and General Council, the Minister responsible for the Militia and the Military Congress.

Art.3

San Marino citizens shall be obliged to perform military service from the age of sixteen to the age of sixty.

The following shall be exempted from compulsory service:

- 1) Members of the Government.
- 2) Magistrates of the judiciary.
- 3) Members of the clergy.

- 4) Persons recognised by the Congress of State as indispensable to the functioning of essential offices and services.
- 5) Persons recognised by the Military Congress as unfit for service due to physical or moral impediments.

Art.4

General mobilisation shall be ordered:

1°) by a decision of the Great and General Council, or, in cases of extreme urgency, by decree of the Captains Regent, when it is necessary to defend the independence of the Republic and the integrity of its territory;

2°) by decree of the Captains Regent, when it is necessary to maintain public order and intervene in cases of public disasters.

When it is impossible for the Great and General Council to be convened immediately and in case of legitimate impediment of the Captains Regent, the general mobilisation order shall be issued by the Higher Commander, after hearing the opinion of the Minister responsible for the Militia and after ratification by the Military Congress.

Art.5

After receiving the general mobilisation order, disseminated throughout the territory of the Republic by every possible means available, the citizens shall gather at the Militia Headquarters or at the indicated locations to receive the appropriate orders and to find out their destination.

Citizens who, without legitimate impediment, fail to comply with the general mobilisation order shall be subject to the punishment specified in Article 86 of this Law.

Art.6

The Military Congress shall regulate the normal service of the Military Corps, exercise the sanctioning power in the field of discipline, provide for the recruitment of members of the Militia, decide, in the cases provided for by this Law, on the appointment and advancement in rank of Officers and ratify the appointment and advancement in rank of Non-Commissioned Officers.

The Minister responsible for the Militia shall be the political head of the Military Corps. The Military Congress shall refer to such Minister for any logistical and administrative matters related to the Military Corps.

Within the Congress of State and the Great and General Council, the Minister shall be competent to report on all issues and propose measures to ensure the functioning of the Military Corps and the achievement of the military organisation's purposes.

Art.7

Military Corps, in relation to their specific institutional functions and tasks, shall be governed by special Regulations in addition to these rules.

Art.8

The solemn oath formula shall be as follows:

"I SWEAR TO PROTECT THE HOMELAND, ITS INDEPENDENCE, ITS FREEDOM, TO DEFEND ITS INSTITUTIONS, THE INTEGRITY OF ITS TERRITORY, THE GREAT AND GENERAL COUNCIL AND THE CAPTAINS REGENT; TO PAY, IN THE PERFORMANCE OF INSTITUTIONAL DUTIES, PROMPT AND PERFECT OBEDIENCE; TO ENSURE THE OBSERVANCE OF THE LAWS, TO CONTRIBUTE TO THE MAINTENANCE OF PUBLIC ORDER AND THE GOOD OF THE COMMUNITY AND THE CITIZENS".

With the oath, military members shall solemnly give their word of honour.

Art.9

Military service in the Uniformed Corps shall be voluntary and shall be performed in the manner established by law and regulations.

A foreigner who has been residing in San Marino for at least six years may enter voluntary military service, (with the exception of the Guard of the Great and General Council), in the form and within the limits provided for by the laws and regulations.

The conditions to be members of the Military Band for foreigners, with residence of less than six years or who do not reside in San Marino, shall be determined by the Regulations of the Band.

Persons who are seriously suspected of misconduct under acts of the San Marino Court shall be excluded from the Military Rolls, and if they are registered in it, they shall be removed therefrom.

Art.10

The following citizens shall be exempted from military service:

- 1°) citizens whose height is less than 1.55 metres;
- 2°) citizens having a visual acuity of less than 5/10 for both eyes;
- 3°) citizens having diseases or physical and mental imperfections that prevent the performance of unconditional service;
- 4°) citizens declared disqualified or incapacitated by reason of insanity.

A military member to whom the circumstance provided for in point 4 of the preceding paragraph applies shall be permanently removed from the Military Rolls.

Art. 11

Members of the Uniformed Corps, Non-Commissioned Officers, Agents and members of the Militia, who have reached the age of 40, shall undergo a periodic medical examination every three years to verify their suitability for unconditional service.

The medical examination shall take place once a year collectively for all military members who, in the last twelve months, have fulfilled the conditions set out in the preceding paragraph.

The Paymaster General shall promptly notify the Chief Medical Officer of the list of military members subject to the medical examination and the Chief Medical Officer shall convene them.

The Chief Medical Officer shall prepare a report for each military member examined, on a specially prepared form, and forward it within ten days to the Higher Command.

The Paymaster General shall annotate the following on the form:

- personal details,
- date of birth,
- length of service.

The Chief Medical Officer shall report the following:

- illnesses that compromise fitness for unconditional service,
- general conditions leading to reduced physical activity,
- weight-height ratio.

The reports shall be submitted to the Military Congress, which shall order the placement of unfit military members on leave.

Military members placed on leave shall not wear the uniform, shall no longer fulfill service obligations, shall be entered on the Military Roll of Honour and shall retain their rank.

Art.12

The State shall establish effective measures to protect and promote the development of the personality of military members and to ensure that they can perform their military service with dignity.

The State shall promote the cultural advancement, the development of civic awareness and the professional training of the military members and shall establish the conditions for their effective pursuit.

Art.13

The Flag shall be the symbol of the Republic and of military honour: the highest honours shall be paid to it.

Art.14

The military salute shall be an external manifestation of the feeling of discipline and respect for hierarchy.

Military members shall salute the Flag, the National Anthem, and all their Superiors. Returning the salute shall constitute a specific disciplinary obligation.

Art.15

The uniform shall identify military members and indicate the Corps to which they belong and their rank. The regulations of the Corps shall provide for their composition and appearance.

The symbol consisting of the three feathers shall be the distinctive badge that marks membership of the Military Corps.

Any modification or alteration of the uniform shall be considered a disciplinary offence. Military members shall take special care of their uniform and wear it with decorum.

Art.16

Military hierarchy shall determine the reciprocal positions of the military members, in relation to the ranking of functions, tasks and responsibilities.

Military members shall be divided, according to rank, into four categories:

- 1) Officers;
- 2) Non-commissioned Officers;
- 3) Agents;
- 4) Members of the Militia.

Art.17

Military members shall comply with all rules concerning hierarchical relations and discipline with a sense of responsibility and conscious participation.

Orders shall be related to discipline, concern the service and not exceed the assigned tasks.

A military member who is given an order that is manifestly against the institutions of the State or manifestly illegitimate or the execution of which manifestly constitutes an offence, shall not carry out the order and shall inform his immediate superiors in command as soon as possible.

Art.18

The Military Authority shall have sanctioning power in the field of discipline.

Violation of the duties of military discipline shall result in the disciplinary sanctions provided for in this Law.

Art.19

The exercise of a right under this Law shall exclude the applicability of disciplinary sanctions.

Military members shall comply with the rules of this Law when they are in one of the following conditions:

1°) they perform service activities;

2°) they are in military places or other places intended for

service; 3°) they wear the uniform;

4°) they identify themselves as military members or address other military members in uniform or who identify themselves as such.

When the aforementioned conditions do not apply, Military members shall comply with the provisions of this Law relating to the duties associated with the oath taken, the rank and the protection of the foundations of the military institutions.

In any case, the civil and political rights and guarantees recognised by the San Marino legal system shall be protected.

Art.20

The Officers, Non-Commissioned Officers, Agents and Members of the Militia of Military Corps shall receive a remuneration for their services, established by special tables, proposed by the Military Congress and approved by the Congress of State.

TITLE II GENERAL DUTIES OF SUPERIORS IN COMMAND

Art.21

Superiors in command shall act solely to serve and for the benefit of the militia and the Republic and to observe and ensure that their subordinates observe the laws, regulations and military orders.

They shall set an example of respect for discipline and strict observance of regulations; maintain discipline among their subordinates and harness and develop both their intellectual and physical abilities; maintain a conduct appropriate to their rank; fulfil their duties and demand the same from their subordinates.

In the exercise of their duties, superiors in command shall be obliged to respect the dignity of their subordinates.

Art.22

Superiors in command shall be responsible for the directives and orders they give.

They shall be responsible for the execution of orders received and the conduct of their subordinates.

To this end, they shall adopt emergency disciplinary measures to be ratified by the Military Disciplinary Council.

TITLE III

GENERAL DUTIES OF SUBORDINATES

Art.23

The duties of subordinates shall basically consist of respect for the superior in command and obedience for the perfect execution of orders received.

A subordinate who, by words or deeds undermines, even indirectly, the authority of the superior in command or diminishes in any way the consideration in which he must be held, shall be considered in violation of the duties imposed by subordination.

A military member who criticises his superior in command or orders issued by the latter shall be guilty of serious disciplinary misconduct.

Misconduct shall be considered very serious if committed in the presence of subordinates.

Art. 24

Obedience shall be paid to the superior in command with equal readiness and loyalty, whatever the difference in hierarchical rank.

Obedience to military members holding command positions or offices, by military members higher in rank or more senior in rank, shall be due only within the limits of the powers connected with the command exercised or office held.

Art.25

Military members shall be responsible for the precise execution of orders received and shall not make any observations when receiving them.

However, they shall ask for clarification in the event that they have not understood them.

When military members consider that, for reasons not known to the superior in command, the execution of an order may cause harm, they shall report it.

Art.26

A military member on duty shall not be replaced without being duly authorised to do so.

Art.27

Military members who consider that their rights have been violated may lodge a complaint, also against their direct superiors in command, by submitting it to the Higher Commander of the Militia.

If the complaint turns out to be unjustified, the military member may be subject to disciplinary sanctions.

Art.28

It shall be the duty of every military member on duty: to spontaneously come to the aid of another military member, of whatever rank, in case of need; to make every effort to control and suppress any disturbance occurring in their presence; in case of flagrant offence, to use all means to prevent it and stop the offender; to provide assistance in cases of public

disasters.

TITLE IV

RECRUITMENT

Art.29

Recruitment shall be the set of operations by which the State ensures the gathering, selection and placement in the military corps of citizens subject to compulsory military service in the cases provided for in Articles 2 and 7.

Art.30

By January of each year, the Registrar of the Vital Statistics Office shall transmit to the Higher Command of the Militia the list, containing the personal details, of San Marino citizens required to perform military service in accordance with Article 7 who, in the previous year, reached the age of 16.

Art.31

The Military Congress shall establish the personnel of the Military Corps, verify their conditions, and, if it finds the need to increase their personnel, determine the number of persons to be recruited in each Corps and request the Higher Command to issue the recruitment announcement.

Subject to the positive opinion of the Minister responsible for the Militia, within thirty days of receiving the decision of the Military Congress, the Higher Command shall:

1°) issue the recruitment announcement for one or more military corps and establish the place, day and hour at which recruitment shall take place;

2°) order the posting of the recruitment announcement in the Townships of the Republic and indicate the documents required for the submission of recruitment applications;

3°) order the convening of the Recruitment Commission for the fixed date.

Art.32

The minimum duration of voluntary service in the military corps shall be five years, starting from the date of recruitment.

The swearing-in ceremony shall take place as soon as possible.

At the end of the five-year period, the conscription shall be automatically renewed from year to year if the person concerned has not resigned.

The interruption of the conscription may be authorised by the Military Congress, after hearing the opinion of the Commander of the Corps to which the military member belongs, only for documented and serious reasons of force majeure.

Art.33

The following shall make up the Recruitment Commission: the Inspector General acting as President; the Secretary of the Military Congress; an Officer of each Military Corps; the Chief Medical Officer; a delegate of the Minister responsible for the Militia; the Paymaster General of the Military Corps for the relevant administrative functions.

At the date and place indicated in the announcement, the Commission shall conduct a personal examination of the candidates and their documents and shall decide on their recruitment or exemption.

Art.34

If the number of candidates declared eligible exceeds the number specified in the announcement, the Commission shall proceed with recruitment on the basis of the following preferential criteria:

1°) younger age

2°) better physical conditions and aptitude for unconditional service

3°) educational qualification.

The Commission shall decide within ten days.

Art.35

Appeals against decisions of the Recruitment Commission concerning citizenship, civil rights, and the physical condition of candidates for recruitment may be submitted to the Military Disciplinary Council, which shall issue an irrevocable ruling within 15 days from the date of notification.

Art.36

The Recruitment Commission shall enter the recruited persons in the roll of the Military Corps to which they belong and send the list of recruited persons to the Minister responsible for the Militia, the Military Congress and the Commands of the Military Corps.

TITLE V

RANK OF OFFICERS, NON-COMMISSIONED OFFICERS AND AGENTS

Art.37

The rank of officers, non-commissioned officers and agents:

1°) shall be achieved on the basis of specific aptitude for command, devotion to Military Institutions, diligence in service, particular physical and intellectual qualities, commendable military and civil conduct, seniority in service:

2°) shall be effective with the lawful conferment of rank, which shall entail all the duties and rights provided for by the laws and regulations, and shall cease with the loss of that rank.

Art.38

The rank shall be lost for one of the following reasons:

1°) voluntary resignation: acceptance of resignations from the rank of Agent shall be the responsibility of the Inspector of the Corps: acceptance of resignations from the rank of Non-Commissioned Officer and Officer shall be the responsibility of the Military Congress.

2°) compulsory resignation:

A) for civil disqualification or civil incapacitation;

B) for verified intentional untraceability;

C) for activities incompatible with the rank of Officer, Non-commissioned Officer and Agent.

3°) removal for violation of the oath or for other disciplinary reasons; 4°)

expulsion from the Military rolls.

Loss of rank through compulsory resignation, removal and expulsion shall be decided by the Disciplinary Council in accordance with the procedures and rules laid down in this Law.

Appeals against decisions of the Disciplinary Council shall be lodged in accordance with Article 93.

TITLE VI

APPOINTMENT, ADVANCEMENT IN RANK, HIERARCHY OF NON-COMMISSIONED OFFICERS AND AGENTS

Art.39

The appointment of non-commissioned officers and agents, shall be ordered by the Commander of the Corps to which the member of the Militia belongs, after hearing the opinion of the Inspector of the Corps.

The Military Congress shall ratify the appointments referred to in the first paragraph and shall rule irrevocably on any appeals lodged by members of the Militia excluded from appointment.

Art.40

Advancement to the rank of Corporal and Corporal Major shall take place by seniority, and therefore members of the Militia and agents who have reached the required seniority shall be promoted to the higher rank.

Advancement in rank by seniority shall be connected with the awarding of medals, and therefore the member of the Militia shall obtain the ranks:

A) of Corporal at the awarding of the 3rd class medal;

B) of Corporal Major at the awarding of the 2nd class medal.

The ranks of Sergeant and Sergeant Major shall be achieved by merit and by reason of vacancy in the higher rank, and therefore those deemed suitable shall be promoted according to the positions available.

Advancement in rank shall be ordered by the Commander of the Corps to which the non-commissioned officer belongs in agreement with the Inspector of the Corps and shall be ratified

by the Military Congress.

The Military Congress shall unquestionably decide on any appeals made by Non-commissioned Officers excluded from the advancement.

Non-commissioned officers and agents on permanent leave shall be automatically promoted to the next higher grade if they have been awarded the 1st class seniority medal and have not been subject to the disciplinary punishments provided for in paragraphs 4, 5, 6 and 7 of Article 79.

Art.41

The hierarchy of Agents shall be as follows:

CORPORAL

CORPORAL MAJOR

The hierarchy of Non-commissioned Officers shall be as follows:

SERGEANT

SERGEANT MAJOR

For the hierarchy of the ranks of the Gendarmerie Corps and the Fortress Guard - Uniformed Unit, the specific regulations of the Corps shall apply.

TITLE VII

APPOINTMENT, ADVANCEMENT IN RANK, HIERARCHY AND FUNCTIONS OF OFFICERS

Art.42

The first appointment to the rank of Second Lieutenant shall be obtained following the declaration of eligibility issued by the Selection Board of the competition in which the following may participate:

- 1) all recruited military members with at least five years' seniority in service and a university degree or high school diploma;
- 2) citizens with a university degree or high school diploma;
- 3) Sergeants Major with a junior secondary school diploma, who shall not, however, be above the rank of Lieutenant.

The following shall constitute grounds for eligibility: special aptitude for leadership, physical fitness, educational qualification, seniority, diligence in service and disciplinary status.

Each ground for eligibility shall be scored from 1 to 10.

In the event of equal scores, membership of the Military Corps shall constitute an advantage.

Art.43

The competition shall consist of:

- 1) a practical test of leading a platoon;
- 2) an oral test on general culture, with particular reference to the characteristics, structure and history of the civil and military institutions of the Republic.

The practical and oral tests shall be marked from one to ten.

Art.44

The Commission shall be composed of: the Inspectors of the Corps, the Secretary of the Military Congress who shall take the minutes, the Commanders of the Military Corps, the Military Prosecutor, and a delegate of the Minister responsible for the Militia.

The highest-ranking Officer shall act as President.

Art. 45

The competition notice shall be issued, upon the order of the Military Congress, by the Higher Command, after a positive opinion of the Minister responsible for the Militia, at the request of the Inspector of the Corps whose staff needs to be integrated, after hearing the opinion of the Commander.

Art. 46

The list of eligible candidates shall remain valid for a period of two years.

Eligible candidates shall acquire the rank of Second Lieutenant in the event of a vacancy for that rank during the above-mentioned period.

Art.47

In cases in which no candidates participate in the competition or the Commission does not deem it possible to issue a declaration of eligibility, the appointment to the rank of Second Lieutenant shall be made by the Military Congress, on the basis of the opinion of the Inspector and the Commander of the Corps, according to the eligibility factors set out in Art. 40, excluding the candidates already declared ineligible by the Commission.

Art.48

Appointment to the rank of Second Lieutenant shall be ratified by the Military Congress and be submitted to the Great and General Council for acknowledgement.

Art.49

The advancement in rank of Officers shall be achieved by merit and by reason of vacancies in the higher rank, and therefore Officers deemed eligible shall be promoted according to the positions available in the higher rank.

Advancement in rank by merit shall be proposed by the Inspector of the Corps to which the Officer belongs, after hearing the opinion of the Commander, in agreement with the Inspector General.

The appointment shall be made by the Military Congress, which shall also rule irrevocably on any

appeals lodged by officers excluded from advancement, and shall be submitted to the Great and General Council for acknowledgement.

Art.50

Subordinate Officers shall be subject to the provisions of Article 11 of this Law; for them the medical examination shall take place separately.

The Military Congress shall transfer officers found physically unfit to the reserve. This rank shall be equivalent to being on leave but shall entail the possibility of being recalled to duty for reasons of force majeure.

Superior Officers shall also undergo a medical examination every three years.

The Higher Commander shall issue the instructions for their execution and personally examine the medical reports.

The possible placement of Superior Officers in the reserve shall be decided by the Higher Commander, after hearing the opinion of the Minister responsible for the Militia.

Art.51

The hierarchy of Officer ranks shall be the following:

SUPERIOR OFFICERS: GENERAL;

COLONEL;

LIEUTENANT COLONEL;

MAJOR.

SUBORDINATE OFFICERS: CAPTAIN;

LIEUTENANT;

SECOND LIEUTENANT.

Art.52

The Commanders of the Military Corps shall be in charge of the Companies or Units that make up the individual Corps in execution of the special regulations.

They shall report to the Higher Command, through the Inspector of the Corps, on any matter relating to the Corps, Company or Unit to which they are assigned.

Art.53

The Military Prosecutor and the Chief Medical Officer shall perform the duties inherent in their office in the cases provided for by this Law and when ordered to do so by the Higher Command.

TITLE VIII

MILITARY CONGRESS

Art.54

The Military Congress shall preside over the service of the Militia and shall be an advisory body to the Minister responsible for the Militia.

Art.55

The following opinions of the Military Congress shall be mandatory:

- 1) on matters relating to military regulations, the organisation and preparation of the Military Corps;
- 2) on draft legislative or regulatory measures concerning military discipline; the status and advancement of officers and non-commissioned officers; recruitment; civil protection;
- 3) on the proposals to be transmitted:
 - a) to the Ministry of Finance and Budget with regard to extraordinary military expenditure;
 - b) to the Congress of State with regard to military procurement.

Art.56

The Minister responsible for the Militia may, upon his or her own initiative, refer to the Military Congress any other matter of technical, military or administrative interest that is not among those listed above.

Art. 57

In emergency decrees, when the opinion of the Military Congress is mandatory, the formula "having heard the opinion of the Military Congress" shall be included.

Art.58

The following shall be Members of the Military Congress:

The Minister responsible for the Militia, acting as President;

The Higher Commander of the Militia with the rank of General, whose office shall be called "Higher Command of the Militia";

The Inspector General with the rank of colonel;

The Chief of Staff with the minimum rank of lieutenant colonel; the

Deputy Chief of Staff with the minimum rank of major;

The Inspectors of the Military Corps with the minimum rank of Major;

The Secretary of the Military Congress, with the minimum rank of captain.

Article 59

Officers who do not belong to the Military Congress or are not part of the Corps staff shall be considered, regardless of their rank, as Staff Officers and shall report directly to the Higher Command.

The following shall be considered Staff Officers:

- 1) a Military Prosecutor with the rank of pro-tempore Major;
- 2) one or two military chaplains with the rank of captain and lieutenant;
- 3) two or more Chief Medical Officers with the ranks of Major, Captain, Lieutenant;
- 4) an Inspector of the Military Band with the rank of Major or Captain pro-tempore;
- 5) the Officers of Ordnance:
 - of the Higher Commander with the maximum rank of Major
 - of the Inspector General with the maximum rank of Captain
 - of the Chief of Staff with the maximum rank of Captain
 - of the Inspectors of the Corps with the maximum rank of lieutenant.
- 6) One or more Administrative Officers with the maximum rank of Lieutenant;
- 7) a Deputy Secretary of the Higher Command with the maximum rank of Lieutenant.

Art.60

The Great and General Council shall appoint the Higher Commander of the Militia, chosen from among the highest-ranking officers.

Art.61

The Higher Commander shall preside over the Military Congress in the event of the absence, impediment or delegation of the Minister responsible for the Militia.

The Military Congress shall appoint its Members, chosen from among the highest-ranking officers, upon designation by the Higher Commander, after hearing the opinion of the Minister responsible for the Militia.

The Military Congress shall appoint the Commanders of the individual military corps from among the officers of the same corps with the rank of captain.

Each Unit or Company of each military corps shall have its own Commander. It shall also appoint the Military Prosecutor, Military Chaplains and Chief Medical Officers.

The persons appointed, who at the time of appointment do not have a rank, shall be given a rank as provided for in Article 57.

Art.62

The Higher Commander shall exercise command of the Militia for the defence and prestige of the Republic of San Marino.

He shall have the following powers:

- oversee the organisation, preparation and deployment of the individual Military Corps;
- propose to the Minister responsible for the Militia the general structure of the organisation of each Military Corps;
- define the general criteria for the defence of the territory and for the intervention of the Militia in cases of public disasters;
- issue directives for the training of the Military Corps and define the programme of drills;
- monitor the implementation of the directives issued by the Higher Authority and, within the scope of his functions, transmit them via the Inspector Officers to the Commanders of the individual Corps.

The Higher Commander shall report directly to the Captains Regent and the Minister responsible for the Militia, to whom he shall be accountable for the execution of the directives he receives.

He shall be consulted by the Minister responsible for the Militia on the main administrative issues concerning the organisation of the individual Corps.

Art.63

The Inspector General shall replace the Higher Commander by right in case of absence or impediment.

He shall coordinate the activities of the Inspectors of the Corps.

He shall report to the Higher Commander any inconvenience, irregularity or illegal situation found within the Militia as a whole or within the individual military corps, and shall be obliged to request the adoption of appropriate measures.

Art.64

The Chief of Staff shall replace the Higher Commander and the Inspector General by right in cases of absence or impediment.

He shall cooperate with and support them in the performance of all their duties.

He shall authorise extraordinary military operations and services not provided for in the regulations of the individual Corps.

Art.65

The Deputy Chief of Staff shall assist the Chief of Staff in all tasks assigned to him.

He shall replace the latter by right in case of absence or impediment.

Art.66

Inspector Officers shall exercise control functions over the Corps to which they belong and in particular over uniforms, weapons, headquarters, instructions and, in general, military service, discipline and administration.

They shall report to the Military Congress on the requests, needs and status of the Corps; they shall give their opinion for the appointment of non-commissioned officers and agents of the Corps.

Art.67

The Secretary of the Military Congress shall prepare the matters to be discussed during the sessions of the Military Congress, which he shall convene after receiving the order from the Higher Commander.

He shall draw up the minutes of the meetings and ensure the execution of the

decisions adopted. He shall cooperate with and support the Higher

Commander in the performance of his duties.

Art.68

In the sessions of the Military Congress, the Staff Officers, the Commanders of the Corps and the Paymaster General may be called upon to speak.

Art.69

The Military Congress shall be convened upon initiative of the Minister responsible for the Militia, or by the Higher Commander.

The Congress shall decide by a majority of votes and by an open vote cast in reverse order of rank.

All Members shall be entitled to vote.

The decisions shall be valid provided that half the members plus one are present. The

decision on each matter shall be recorded in the minutes.

The minutes shall include a summary of the discussion, upon request, together with the opinions expressed and the result of the vote.

The minutes of the meeting shall be taken by the Secretary of the Military Congress.

TITLE IX

MILITARY AWARDS

Art.70

There shall be three categories of military

awards: 1) Medal for Bravery

2) Service Medal 3)

Medal of Fidelity

Medals for bravery shall be of:

- gold
- silver
- bronze

Service medals shall be of:

- gold
- silver
- bronze

Medals of fidelity shall be of gold.

Art.71

Medals for bravery shall be awarded by the Military Congress, upon proposal of the Inspector, after hearing the Commander of the Corps, for acts of particular bravery or altruism.

Art.72

Service medals shall be awarded ex officio to military members who have served in the Corps for the following periods:

- 1) 10 years: Bronze medal (3rd class)
- 2) 18 years: Silver medal (2nd class)
- 3) 25 years: Gold medal (1st class).

Art.73

Medals of fidelity shall be awarded to military members who have served in the Military Corps for fifty years.

Art.74

All military awards, subject to acknowledgement by the Grand Magistracy of the Equestrian Order of Saint Agatha, shall be accompanied by the corresponding diploma.

TITLE X

DISCIPLINARY PUNISHMENTS

General provisions

Art.75

Violation of the duties of military discipline shall result in Corps disciplinary sanctions and Disciplinary Council sanctions.

Disciplinary punishment shall have above all a moral value.

It shall be the duty of the superior in command to maintain discipline by example and through education, persuasion, prevention of misconduct and repression of any violation.

Art.76

Those who are in charge of imposing the punishment, determining its nature and giving reasons, shall in any case take into account the service and disciplinary record, as well as the rank, age and seniority of the offender; punish with greater severity misconduct that affects, even if slightly, fidelity and moral uprightness, as well as cases of recidivism and misconduct in the presence of other military members; inflict the most severe punishment on the highest-ranking or most senior military member involved in the same misconduct.

The reasons shall be stated in a concise and clear form so that the misconduct may be accurately established.

Art.77

Any officer or non-commissioned officer who notices a misconduct subject to disciplinary punishment shall act promptly to suppress it and shall report it to the commander of the Unit or Company to which the military member who carried out the misconduct belongs.

Art.78

All punishments, with the exception of warning and fine, shall be recorded in the personal file of the military member with the reason for the punishment.

TITLE XI

VIOLATIONS SUBJECT TO DISCIPLINARY PUNISHMENT

Art.79

The following violations shall be punished in accordance with this Law:

- violations of the principles of military discipline;

- violations of military regulations;
- negligence in the performance of one's duties;
- unauthorised or improper use of the uniform;
- military and civil conduct affecting the decorum of the rank and uniform;
- insubordination;
- abuse of power;
- conviction for criminal offences shall entail the consequences provided for in this Law.

Art.80

Lighter punishments shall be imposed for minor misconduct; more severe ones for misconduct that has caused damage to discipline or in cases of recidivism.

Misconduct carried out in conspiracy with subordinates shall be regarded as particularly serious.

When offences or violations covered by the criminal law are committed by military members, the ordinary court shall have jurisdiction, and any military disciplinary action shall be suspended until the criminal proceedings have been concluded.

Conviction for criminal offences involving imprisonment or disqualification from public offices of between six months and one year shall entail suspension from the Military Rolls for a period equal to that of the conviction, but separate from it.

Conviction for criminal offences by imprisonment or disqualification from public offices, exceeding one year, shall entail the definitive cancellation from Military Rolls.

The Military Congress may impose the precautionary suspension from the formal indictment to the conclusion of the proceedings. Once the criminal proceedings have been finalised, any disciplinary action shall be taken, except in the case of acquittal with the formulas "for not having committed the fact" or "because there is no case to answer", provided that no facts or circumstances affecting military discipline have emerged.

TITLE XII

TYPES OF PUNISHMENT

Art.81

Disciplinary punishments shall be:

1°) warning:

2°) fine to the extent determined by the special regulations of the individual Military Corps, or in the absence thereof, by the Military Congress;

- 3°) reprimand;
- 4°) solemn reprimand;
- 5°) arrest;
- 6°) imprisonment;
- 7°) suspension from the duties of the rank;
- 8°) loss of the rank;
- 9°) expulsion from the Military Rolls.

Art.82

The warning shall punish minor misconduct or omissions caused by negligence.

It shall be made verbally by any superior in command to the military member who carried out the misconduct, without any obligation to report it.

The following shall be punished with a warning:

- uncustomary delay in arriving at the headquarters for training and service;
- unjustified uncustomary absence from training and compulsory service;
- unauthorised departure from training and service for a period of time not exceeding fifteen minutes;
- lack of uniform accessories;
- negligence in personal cleanliness;
- omission of the salute and failure to return it.

Art.83

The fine shall punish non-compliance with duties and violations of the rules of discipline and service and recidivism in minor misconduct.

The following shall be punished with a fine:

- recidivism in misconduct punishable by a warning;
- customary delay in arriving at or absence from the headquarters for training and mandatory service;
- undisciplined and undignified conduct on duty;
- improper conduct towards superiors in command;

- disrespectful comments on service orders;
- inappropriate and improper behaviour while in uniform in public places.

The fine shall be imposed by any superior in command to the military member who carried out the misconduct, with the obligation to report it to the commander of the unit.

The commander of the unit shall notify the Paymaster of the Corps to which the military member belongs. The Paymaster shall be required to collect the fine and hold it in deposit.

The unpaid fine shall be deducted from the service allowance of the military member.

Art.84

Reprimands shall punish violations of the principles of military discipline, serious disciplinary misconduct, violations and infringements of orders.

The following shall be punished with a reprimand:

- recidivism in misconduct already punished by a warning and a fine;
- unauthorised permanent departure from training and service;
- disrespectful complaints against superiors in command and unjustified protests;
- tolerance of irregularities found while on duty;
- acts or facts that tend to create discontent or disorder among the military members;
- conduct that is not in line with military status and rank, both on duty and in private life;
- abuse of power;
- declaration of physical indisposition, recognised as non-existent;
- participation in political rallies wearing a uniform.

Art.85

The reprimand shall be imposed in writing by the Commander of the Corps to which the military member belongs. The reason for the punishment shall be posted at the Militia Headquarters.

Art.86

The solemn reprimand shall be delivered in exemplary form to punish:

- customary and serious negligence in the performance of the duties;
- non-compliance with discipline and the rules of private behaviour and conduct;

- repeated recidivism in offences already punished by minor disciplinary measures.

Art.87

The solemn reprimand shall be delivered:

- A) by the Minister responsible for the Militia, after hearing the Military Congress, to the Higher Commander;
- B) by the Higher Commander, after hearing the Minister responsible for the Militia, to the members of the Military Congress;
- C) by the Higher Commander, after hearing the Inspector General, to the Officers;
- D) by the Higher Commander in all other cases.

The authority delivering the solemn reprimand shall write the reason for it and order its posting at the militia headquarters.

In particularly serious cases, the solemn reprimand may be inflicted on the punished person in the presence of the military members designated by the authority delivering the punishment.

Art.88

Arrest, from one to fifteen days, shall punish:

- non-compliance with the general mobilisation order;
- insubordination;
- serious abuse of power, including threats, maltreatment or insult;
- any act, even of a non-serious nature, detrimental to State property, in particular the transfer, alteration or loan of uniform and weapons.

When applying the punishment of arrest, the Disciplinary Council shall also determine the manner in which it shall be exercised. It may order a house arrest.

In the event of insubordination, if the service is of particular importance, the Commander of the Corps may order the immediate arrest of the offender and oblige him to perform the service.

Art.89

Imprisonment, for a period of fifteen to ninety days, shall punish:

- failure to uphold the oath;
- collective displays of insubordination and incitement to collective insubordination.

Art.90

The sanctions of arrest and imprisonment shall be imposed by the Disciplinary Council following a formal investigation to be carried out in accordance with the rules laid down in this Law.

Art.91

When recidivism is not expressly provided for as an aggravating circumstance, it shall entail a one quarter increase of all punishments. In the event of further recidivism and also in the event of particular seriousness of the violation, the Disciplinary Council may apply, in addition to the punishment of arrest or imprisonment, suspension from the rank or status of military member, loss of rank or definitive removal from the Military Rolls.

Recidivism shall involve a violation of the same kind committed within three hundred and sixty-five days of the previous one.

Art.92

No disciplinary punishment shall be imposed without notifying the alleged violations and without having heard and examined the justifications put forward by the military member concerned.

Art.93

Against the disciplinary punishments:

1°) of warning no appeal may be lodged;

2°) of fine and reprimand an appeal may be lodged within twenty days with the Higher Command of the Militia, which shall rule irrevocably;

3°) of solemn reprimand, arrest, imprisonment, suspension from the duties of the rank, loss of rank and expulsion from the Military Rolls, an appeal may be lodged, within thirty days of notification of the measure, with the Captains Regent, who shall rule irrevocably.

The appeal shall suspend the measure appealed against.

TITLE XIII

DISCIPLINARY PROCEEDINGS

Art.94

The formal investigation shall be the set of acts aimed at establishing a disciplinary violation for which the military member may be punished in accordance with Article 81, points 5, 6, 7, 8 and 9.

The decision to place the military member under formal investigation shall be taken by the Military Congress. After hearing the Minister responsible for the Militia, the Higher Command shall forward a report through the Chief of Staff within a maximum of ten days to the Military Prosecutor.

A report against a member of the Military Congress may be submitted, within a maximum period of fifteen days, by the Minister responsible for the Militia, after hearing the Military Congress.

Art.95

The Military Prosecutor shall open the investigation, interrogate the defendant and witnesses, and conduct appropriate investigations. If he considers that the military member should be referred to the Disciplinary Council, he shall formulate the charge and forward it to the Higher Commander of the Militia.

During the investigation the defendant may be assisted as indicated in Art. 96.

The Higher Commander of the Militia shall order the convening of the Military Congress, constituted as a Disciplinary Council, and fix the place, date and time of the convening.

The Military Prosecutor shall order the notification of the indictment to the defendant, with a summons to appear and to defend himself at the place and on the date fixed.

He shall also summon the witnesses.

Art.96

The Disciplinary Council shall meet at the place indicated in the notice of the meeting. The meeting shall be valid provided that at least half the members plus one are present.

The defendant shall appear in person before the Council and may be assisted by another military member of a higher rank, as defence counsel, with the option of appointing a legal adviser in the person of a lawyer included in the Register of San Marino Lawyers.

If the defendant does not appear, proceedings shall be conducted in default of appearance. In this case, if no defence counsel is available, the Higher Commander of the Militia shall appoint the defence counsel ex officio.

Upon opening the meeting, the President shall remind the members of the Council of the importance of the judgements they are called upon to render; he shall also warn them to refrain from making any comments when asking for clarifications.

He shall then introduce the defendant, the defence counsel and the witnesses, read out the charge, and finally request the Military Prosecutor and the defence counsel to continue the proceedings.

Art.97

The Military Prosecutor and then the defence counsel shall hear the defendant, the prosecution witnesses and the defence witnesses.

The President and the members of the Council may request clarifications from the defendant and the witnesses, and may examine any investigation act.

The defendant may also submit previously prepared and signed defensive observations and provide any new documents in his defence.

Subsequently, the Military Prosecutor and the defence counsel shall formulate their final conclusions. The defendant may be the last one to state his observations.

After hearing the conclusions, the President shall ask the Military Prosecutor, the defence counsel, the defendant and the witnesses to leave the hearing room.

Art.98

If the Council considers that it cannot take its decision without further investigation, it shall suspend the proceedings and return the acts to the Military Prosecutor, specifying the points on which it considers that further investigation is necessary.

If the case referred to in the preceding paragraph does not arise, the Council shall render its judgement.

The vote shall be secret. The Council's judgement shall be passed by a majority of those present and, in the event of a tie the President's vote shall prevail.

After having introduced the defendant again, the President shall publish the judgement of the Council and order it to be posted within 24 hours at the Militia Headquarters.

The Secretary shall immediately draw up the minutes of the meeting with the judgement of the Council.

After the minutes have been read out and signed by the Council members, the President shall close the meeting.

The members of the Council shall be bound by official secrecy.

Art.99

As of 1 January 1992, officers of all ranks shall be placed on leave upon reaching the age of 70.

Art.100

This Law shall enter into force on 20 April 1990.

Done at Our Residence, on 26 January 1990/1689 since the Foundation of the Republic.

THE CAPTAINS REGENT

Leo Achilli - Gloriana Ranocchini

THE MINISTER

of Internal Affairs

Alvaro Selva