



CONSOLIDATED TEXT

QUALIFIED LAW NO. 55 OF 25 APRIL 2003

ORGANISATION, INCOMPATIBILITIES, FUNCTIONING, FORMS OF APPEALS AND PROCEEDINGS, EFFECTS OF THE DECISIONS OF THE GUARANTORS' PANEL ON THE CONSTITUTIONALITY OF RULES

CONSOLIDATED TEXT INCORPORATING THE AMENDMENTS RESULTING FROM QUALIFIED LAW NO. 62 OF 28 APRIL 2005 AND QUALIFIED LAW NO. 2 OF 26 OCTOBER 2010.

Title I Establishment of the Guarantors' Panel

Art. 1

1. The Guarantors' Panel shall perform the functions referred to in Article 16 of Law no. 59 of 8 July 1974, as amended by Constitutional Law no. 36 of 26 February 2002, [as well as the functions envisaged by Article 9 of the latter Constitutional Law].¹

Art. 2

(Election and appointment)

1. The full members and alternates of the Guarantors' Panel shall be elected, by two thirds majority, by the Great and General Council. The Captains Regent shall put the names of the candidates designated within the Bureau of the Great and General Council to the vote of the Great and General Council.
2. At least three months before the expiry of the mandate of the members of the Guarantors' Panel, the Captains Regent shall convene the Bureau of the Great and General Council with a view to proposing the candidates.
3. The candidates may be either San Marino or foreign citizens and shall be initially appointed for a 4-year mandate.
4. After the first 4-year mandate, at least one third of the components of the Guarantors' Panel shall be renewed every two years, unless its members voluntarily resign or are removed from office, following a draw to select two of its members, a full member and an alternate, among those who have already served at least the first 4-year mandate. The draw shall take place in the presence of the Captains Regent, Heads of Parliamentary Groups, Parliament Representatives and members of the Guarantors' Panel, during a meeting of the Bureau of the Great and General Council.

¹ For the functions set out in Article 9 of Constitutional Law no. 36 of 26 February 2002, reference is made to Article 3 of Constitutional Law no. 1 of 7 December 2021.



5. The full members and alternates who are not drawn by lots shall not hold the position for more than two consecutive mandates. Subsequently, they may be re-elected only after four years from the expiry of the second mandate. The alternates may be elected as full members and vice versa. In this case, the respective periods shall be aggregated.
6. Both full members and alternates shall be appointed by means of a Regency Decree not subject to ratification.
7. Before taking office, the full members and alternates of the Guarantors' Panel shall take an oath before the Captains Regent.

Art. 3
(President)

1. The Guarantors' Panel shall elect, by a majority of its full members and alternates, the President, chosen from among the full members, on a rotating basis and for a term of two years. In the event of a tie, the most senior and, in the alternative, the oldest shall be designated.
2. The President shall immediately designate the full member who shall replace him in the event of an impediment.

Art. 4
(Incompatibilities)

1. The members of the Guarantors' Panel, whether full members or alternates, shall not hold posts or in any case carry out activities within political or trade union associations, stand for general or administrative elections, carry out commercial or industrial activities, hold the position of company director or auditor, both in the territory of the Republic and abroad.
2. The members of the Guarantors' Panel, whether full members or alternates, shall not exercise a professional activity, take up other positions or public or private employments in the territory of the Republic.

Art. 5
(Resignations and removal)

1. Resignations shall be placed in the hands of the President and of the Captains Regent. Resignations shall be immediately effective.
2. The members of the Guarantors' Panel, whether full members or alternates, shall be removed from office in case of unjustified absence for three consecutive sittings or if the incompatibilities referred to in Article 4 of this Law arise.

Art. 6
(Abstention and objection)



1. The causes for abstention and objection provided for in Article 17 of [Law no. 83 of 28 October 1992] shall apply to the members of the Guarantors' Panel².
2. The decision shall be adopted by the Guarantors' Panel in the manner and within the time-limits envisaged in Chapter II of Title VII of this Law.³

Title II

Functioning of the Guarantors' Panel

Art. 7

(Hearings)

1. The hearings of the Guarantors' Panel referred to in the subsequent Titles III, IV, V and VI shall always be public; in the other cases, they shall be public unless otherwise decided by the President for justified reasons of national security, public order or public morality. The Registrar shall draw up the minutes of the hearings, which shall be signed by the President and the Registrar.

Art. 8

(Decisions of the Guarantors' Panel)

1. The meetings of the Guarantors' Panel shall be validly convened with the presence of three members. The members of the Guarantors' Panel shall be obliged to attend the hearings except in case of legitimate impediment notified in writing to the President with the supporting documents, ordinarily at least five days before the hearing.
2. The decisions shall be adopted in closed session by majority.
3. The Guarantors' Panel may adopt decisions by means of a judgement or order. The measures taken by the President shall be in the form of decrees.
4. The judgements shall be pronounced in the name of the Most Serene Republic of San Marino and shall contain, in addition to factual and legal grounds, also the decision, the date of the decision and the signatures of the members of the Guarantors' Panel. The judgements referred to in Title VII of this Law shall be signed only by the deciding member of the Guarantors' Panel.
5. The orders shall be motivated.
6. Any decision of the Guarantors' Panel shall be filed with the Registry. Anyone shall be entitled to examine it and obtain a copy thereof. The provisions in force on publicity shall apply to the decisions adopted in the exercise of the functions envisaged in Title VII of this Law.

² Law no. 83 of 28 October 1992 was repealed by Constitutional Law no. 144 of 30 October 2003 and by Qualified Law no. 145 of 30 October 2003. The grounds for abstention and objection are set out in Article 10 of Qualified Law no. 145 of 30 October 2003, as amended by Article 9 of Qualified Law no. 2 of 16 September 2011. See also Law no. 139 of 16 September 2011, "RULES OF PROCEDURE GOVERNING ABSTENTION AND OBJECTION OF MAGISTRATES", as amended by Law no. 23 of 2 March 2022.

³ Chapter II of Title VII of Qualified Law no. 55 of 25 April 2003 is hereby repealed. See Article 3 of **Constitutional Law no. 1 of 7 December 2021**.



Art. 9

(Representation and defence)

1. For any appeal and for participation in the proceedings before the Guarantors' Panel, the parties shall be represented and assisted by lawyers registered in the Professional Register of Lawyers and Notaries of the Republic of San Marino.
2. Non-San Marino lawyers shall be required to have an address for service at the office of lawyers registered in the Professional Register of Lawyers and Notaries of the Republic of San Marino.
3. The State shall have the right to join the proceedings referred to in Title III of this Law.
4. The State and its bodies shall normally be assisted by the State Lawyers' Office.

Art. 10

(Publicity of acts)

[REPEALED]⁴

Title III

Judicial Review of Constitutionality

Art. 11

(Judicial review of constitutionality)

1. The judicial review of constitutionality referred to in Art. 16 of the Declaration of the Citizens' Rights may take place through direct action or incidental action in the context of proceedings pending before judicial bodies.

Art. 12

(Direct review)

1. Applications for direct review of constitutionality may be lodged by at least twenty Parliament members, the Congress of State, five Township Councils, the Commission for Equal Opportunities, and a number of voting citizens representing at least 1.5% of voters resulting from the last and definitive annual review of electoral lists.
2. The appeal shall be filed with the Registry of the Guarantors' Panel, which shall transmit a copy thereof to the Captains Regent. Appeals against laws or acts having force of law shall be filed within the mandatory time-limit of forty-five calendar days from the official publication through posting at the Government Building of the law or of the act

⁴ **Original text (Qualified Law no. 55/2003)**

1. Judgements and orders issued in the context of the functions referred to in Titles III, IV, V and VI shall be published under Article 30 of Law no. 21 of 11 March 1981 and subsequent amendments and integrations and shall be included in the Official Bulletin.

Legislative amendments

Qualified Law no. 2 of 26 October 2010, Article 3, second paragraph, letter e):

The section referred to in the preceding paragraph shall also include:

e) the decisions of the judgements delivered by the Guarantors' Panel on the Constitutionality of Rules in case of judicial review of constitutionality. Art. 10 of Qualified Law no. 55/2003 is hereby repealed;



having force of law subject to publication. In order to be admissible, the appeal shall clearly indicate the provisions of the law or of the act having force of law whose legitimacy is doubtful or controversial, as well as the allegedly infringed provisions and principles of Law no. 59 of 8 July 1974, as amended by subsequent constitutional laws.

3. In case of applications for review lodged by citizens, the appeal, signed by the promoters, shall contain the name of their representative, on whom all communications and notifications addressed to the applicants shall be effectively served. In order to be admissible, the sheets containing the signatures, duly authenticated, of the percentage of voters established by law shall be attached to the appeal. In order to be declared authentic, the signatures of the voting citizens shall be on specific forms, to be filed with the Vital Statistics Registrar and the Court Registrar and signed also by the representative indicated by the promoters, who may also indicate notaries public. Immediately after an appeal has been lodged, the Registry of the Guarantors' Panel shall request to the Vital Statistics Office - Population and Electoral Services the certificates attesting that signatories are included in the electoral lists.

4. In case of actions brought by the Township Councils, the relevant decision of each Council shall be necessary. The appeal shall be signed by two delegates for each applicant Township Council, representing the Promoting Committee. In order to be declared admissible, the appeal shall be accompanied by the original abstracts of the minutes of the Council's sessions. To be valid, the communications and notifications shall be served on the Heads of the Township Councils.

5. Having received the appeal, the President of the Guarantors' Panel shall order its posting at the Government Building and its publication in the Official Bulletin.

6. Within the following ten days, the President shall fix the date for the hearing and shall notify the applicants thereof.⁵

⁵ **Original text (Qualified Law no. 55/2003)**

1. Applications for direct review of constitutionality may be lodged by at least twenty Parliament members, the Congress of State, five Township Councils, and a number of voting citizens representing at least 1.5% of voters resulting from the last and definitive annual review of electoral lists.

2. The appeal shall be filed with the Registry of the Guarantors' Panel, which shall transmit a copy thereof to the Captains Regent. Appeals against laws or acts having force of law shall be filed within the mandatory time-limit of forty-five calendar days from the official publication through posting at the Government Building of the law or of the act having force of law subject to publication. In order to be admissible, the appeal shall clearly indicate the provisions of the law or of the act having force of law whose legitimacy is doubtful or controversial, as well as the allegedly infringed provisions and principles of Law no. 59 of 8 July 1974, as amended by subsequent constitutional laws.

3. In case of applications for review lodged by citizens, the appeal, signed by the promoters, shall contain the name of their representative, on whom all communications and notifications addressed to the applicants shall be effectively served. In order to be admissible, the sheets containing the signatures, duly authenticated, of the percentage of voters established by law shall be attached to the appeal. In order to be declared authentic, the signatures of the voting citizens shall be on specific forms, to be filed with the Vital Statistics Registrar and the Court Registrar and signed also by the representative indicated by the promoters, who may also indicate notaries public. Immediately after an appeal has been lodged, the Registry of the Guarantors' Panel shall request to the Vital Statistics Office - Population and Electoral Services the certificates attesting that signatories are included in the electoral lists.

4. In case of actions brought by the Township Councils, the relevant decision of each Council shall be necessary. The appeal shall be signed by two delegates for each applicant Township Council, representing the Promoting Committee. In order to be declared admissible, the appeal shall be accompanied by the original abstracts of the minutes of the Council's sessions. To be valid, the communications and notifications shall be served on the Heads of the Township Councils.

5. Having received the appeal, the President of the Guarantors' Panel shall order its posting at the Government Building and its publication in the Official Bulletin.

6. Within the following ten days, the President shall fix the date for the hearing and shall notify the applicants thereof.

Legislative amendments

Qualified Law no. 62 of 28 April 2005, Article 1:



Art. 13
(Incidental review)

1. Applications for judicial review of constitutionality may be lodged through incidental action in the context of proceedings pending before the Republic's jurisdictional bodies by the parties or the Procuratore del Fisco (Prosecuting Magistrate) by means of an ad-hoc written application or *ex officio* by the Judge by means of a reasoned order.
2. In order to be admissible, the application shall contain the indications referred to in Article 12, paragraph 2 of this Qualified Law.
3. Whenever an issue of constitutional legitimacy is raised and solved through direct action, the same issue cannot be raised again through incidental action.
4. The application shall be placed on records of the judicial proceedings and notified to any interested party by the applicant. The Judge shall grant the parties and the Procuratore del Fisco, if involved in the case, twenty calendar days to submit their pleadings and arguments. After such period, the Judge shall reject, by means of an order, manifestly ill-founded or simply dilatory appeals.
5. The ruling on the inadmissibility of the application by the judge *a quo* shall not prejudice a new submission of the application at other instances or in different proceedings.
6. The ruling on the admissibility of the application shall be immediately notified to the parties and to the Procuratore del Fisco and transmitted, together with the case file, to the Guarantors' Panel. The proceedings shall be suspended from the date of the ruling until the day on which the documents are returned.
7. Once he has received all documents, the President of the Guarantors' Panel shall order that the ruling on admissibility be transmitted to the Captains Regent and be posted at the Government Building and published in the Official Bulletin. Within twenty days from the

Article 12 of Qualified Law no. 55 of 25 April 2003 shall be amended as follows:

"Art. 12

(Direct review)

1. Applications for direct review of constitutionality may be lodged by at least twenty Parliament members, the Congress of State, five Township Councils, the Commission for Equal Opportunities, and a number of voting citizens representing at least 1.5% of voters resulting from the last and definitive annual review of electoral lists.
2. The appeal shall be filed with the Registry of the Guarantors' Panel, which shall transmit a copy thereof to the Captains Regent. Appeals against laws or acts having force of law shall be filed within the mandatory time-limit of forty-five calendar days from the official publication through posting at the Government Building of the law or of the act having force of law subject to publication. In order to be admissible, the appeal shall clearly indicate the provisions of the law or of the act having force of law whose legitimacy is doubtful or controversial, as well as the allegedly infringed provisions and principles of Law no. 59 of 8 July 1974, as amended by subsequent constitutional laws.
3. In case of applications for review lodged by citizens, the appeal, signed by the promoters, shall contain the name of their representative, on whom all communications and notifications addressed to the applicants shall be effectively served. In order to be admissible, the sheets containing the signatures, duly authenticated, of the percentage of voters established by law shall be attached to the appeal. In order to be declared authentic, the signatures of the voting citizens shall be on specific forms, to be filed with the Vital Statistics Registrar and the Court Registrar and signed also by the representative indicated by the promoters, who may also indicate notaries public. Immediately after an appeal has been lodged, the Registry of the Guarantors' Panel shall request to the Vital Statistics Office - Population and Electoral Services the certificates attesting that signatories are included in the electoral lists.
4. In case of actions brought by the Township Councils, the relevant decision of each Council shall be necessary. The appeal shall be signed by two delegates for each applicant Township Council, representing the Promoting Committee. In order to be declared admissible, the appeal shall be accompanied by the original abstracts of the minutes of the Council's sessions. To be valid, the communications and notifications shall be served on the Heads of the Township Councils.
5. Having received the appeal, the President of the Guarantors' Panel shall order its posting at the Government Building and its publication in the Official Bulletin.
6. Within the following ten days, the President shall fix the date for the hearing and shall notify the applicants thereof."



publication, the parties and the Procuratore del Fisco may examine the documents lodged and submit pleadings and arguments.

8. Within the following ten days, the President shall fix the date for the hearing and shall notify the parties and the Procuratore del Fisco of the ruling.

Art. 14

(Decisions of the Guarantors' Panel)

1. The hearing shall be oral and take place according to the principle of adversarial proceedings.

2. The Guarantors' Panel shall decide in closed session within the mandatory time-limit of two months.

3. In case of reviews through direct action, the Guarantors' Panel shall declare that an issue of constitutional legitimacy is manifestly ill-founded by means of an order.

4. Admission and rejection decisions shall be adopted by means of a judgement. In case of admission, the Guarantors' Panel shall declare the illegitimacy of the provisions appealed against.

5. Decisions shall be notified immediately by the Registry of the Guarantors' Panel to the applicants and the parties concerned, and a certified copy thereof shall be transmitted to the Captains Regent. The latter shall immediately inform the Great and General Council thereof.

6. Within five days from their filing, decisions on applications lodged through incidental action shall be transmitted to the judicial authority before which the proceedings are pending, together with the documents to be returned.

Title IV

Admissibility of Referenda

Art. 15

1. The functions performed by the Judging Panel on the admissibility of referenda referred to in [Law no. 101 of 28 November 1994] shall be assigned to the Guarantors' Panel.

2. Upon receiving notification of the filing referred to in Article 9 of [Law no. 101 of 28 November 1994], the Captains Regent shall transmit it to the Guarantors' Panel. The President of the Guarantors' Panel shall, by means of a specific decree, fix the date for the hearing, giving at least 10 days' notice; the hearing shall take place within twenty days of the filing. The provisions of [Law no. 101 of 28 November 1994] shall apply to the admissibility procedure.⁶

Title V

Conflicts between Constitutional Bodies

⁶ Law no. 101 of 28 November 1994 was repealed and replaced by Qualified Law no. 1 of 29 May 2013, which was in turn amended by Qualified Law no. 1 of 17 March 2016 and by Qualified Law no. 2 of 23 August 2016.



Art. 16

1. The Guarantors' Panel shall decide on conflicts of powers between constitutional bodies with regard to the enforcement or the interpretation of constitutional rules, by identifying the body responsible for the relevant functions.
2. The appeal shall be lodged by the president of the collegial constitutional bodies, following a specific decision. With regard to the bodies of the judiciary, the appeal shall be lodged by the magistrate whose activity gives rise to or is affected by the conflict.
3. Within five days, the Guarantors' Panel shall decide by means of an order on the admissibility of the appeal. In case of admissibility, it shall notify its decision to the constitutional bodies concerned, by granting them a twenty-day time-limit to submit pleadings and arguments.
4. The Guarantors' Panel shall decide as a matter of absolute priority, and in any event within fifteen days.
5. If the appeal is admitted, the Guarantors' Panel shall, by means of a judgement, rule on the allocation of powers and, where appropriate, annul any acts issued in contravention thereof.
6. The decision shall be notified by the Registry of the Guarantors' Panel to the bodies concerned and transmitted to the Captains Regent.

Title VI

Review action on the acts or omissions of the Captains Regent

Art. 17

1. At the end of their mandate, the Captains Regent shall be accountable to the Guarantors' Panel under Heading XIX of Book I of *Leges Statutae*.
2. The review action shall concern exclusively the assessment of any institutional liability, without prejudice to any criminal and civil liability to be established by the ordinary jurisdictions.
3. Within fifteen days after the conclusion of their mandate, every citizen registered in the electoral lists may lodge complaints with the Registry of the Guarantors' Panel in relation to the Captains Regent's acts and omissions during their mandate. The complaint shall be drawn up in writing; it shall be addressed to the Court, contain a clear and detailed statement of the facts, the supporting evidence deemed necessary by the appellant, as well as the reasons in law supporting the complaint. The complainant shall include in the complaint a clear and detailed indication of the requested decision.
4. Once the above time-limit has expired, the Guarantors' Panel shall meet within five days to verify the admissibility of complaints. In case of admissibility, it shall assign a time-limit of twenty days for the submission of pleadings and arguments, as well as of evidence. The decree shall be notified by the Registry of the Guarantors' Panel.
5. Within the following ten days, the President of the Guarantors' Panel shall fix the hearing for the taking of evidence and the discussion, which shall take place within the following ten days. The decree shall be notified to all parties concerned.
6. Any witnesses and evidence deemed necessary may be presented at the hearing. Having gathered the evidence, the President of the Guarantors' Panel shall open the



discussion, after which the Guarantors' Panel decides in closed session. The Guarantors' Panel may postpone the discussion at the request of the parties, to respect the right of defence, if evidentiary findings require a more in-depth analysis, and shall fix an ad-hoc hearing.

7. The Guarantors' Panel shall adopt a decision by means of a judgement.

8. The person subject to the review action shall have the right to intervene in person during the hearings.

9. With regard to reckless complaints, except when lack of evidence is declared, the Guarantors' Panel shall transmit all documents to the Court for the matters falling within its competence.

10. Article 10 of this Law shall apply to the publicity of acts.

[Title VII]⁷
Jurisdictional Functions
provided for by Article 9 of Law no. 36 of 26 February 2002⁸

⁷Legislative amendments

Constitutional Law no. 144 of 30 October 2003, Article 3:

The judicial functions referred to in Article 9 of Law no. 36 of 26 February 2002 shall be assigned to the Highest Judge of Appeal and to the Judge for Extraordinary Remedies, according to the following provisions.

The Highest Judge of Appeal shall be responsible for ruling on *forum non conveniens* in civil proceedings, on third instance civil and administrative proceedings, and, as a judge of last resort, on appeals lodged in criminal proceedings concerning the lawfulness of personal and property-related precautionary measures, as well as on the enforcement of sentences.

The Judge for Extraordinary Remedies shall decide on disputes between civil, criminal and administrative jurisdictions, on appeals for the review of criminal judgements, on *querela nullitatis* (complaint for annulment) and *restitutio in integrum* (reinstatement) in civil proceedings, as well as on the abstention and objection of Magistrates.

Constitutional Law no. 144 of 30 October 2003, Article 6:

Proceedings falling within the competence of the Highest Judges of Appeal and of the Judges for Extraordinary Remedies shall be subject to the procedural provisions in force, including those of Law no. 55 of 25 April 2003 in so far as compatible. Any changes shall be established by means of an ordinary law.

Constitutional Law no. 144/2003 was repealed by Constitutional Law no. 1 of 7 December 2021, Article 3, paragraph 5 of which states: "The Judge for Extraordinary Remedies shall decide on conflicts between civil, criminal and administrative jurisdictions, on appeals for the review of criminal judgements, on *querela nullitatis* (complaint for annulment) and *restitutio in integrum* (reinstatement) in civil proceedings, as well as on objections of Magistrates and on requests for abstention submitted while objection proceedings are pending."

See Constitutional Law no. 1 of 7 December 2021.

**⁸ See Constitutional Law no. 1 of 7 December 2021, in particular Article 3:
Art. 3**

(Functions of Highest Judges of Appeal and of Judges for Extraordinary Remedies)

1. The Highest Judge of Appeal and the Judge for Extraordinary Remedies who are experts in civil matters shall adopt decisions on cases and issues related to civil and administrative jurisdiction. The Highest Judge of Appeal and the Judge for Extraordinary Remedies who are experts in criminal matters shall decide on cases and issues related to criminal jurisdiction. Objections and requests for abstention submitted when objection proceedings are pending shall be decided by the Judge for Extraordinary Remedies who is expert in the matter related to the proceedings where the relevant applications are submitted.

2. The Highest Judges of Appeal shall replace each other in case of abstention, objection, incompatibility or serious impediment of one of them. Likewise, and in the same cases, the Judges for Extraordinary Remedies shall replace each other.

3. To perform the acts falling within their competence, the Highest Judges of Appeal and the Judges for Extraordinary Remedies shall rely on the registries and the judicial officers of the Court. Appeals, applications and decisions shall be deposited with the Registry where the relevant proceedings have been registered.

4. The Highest Judge of Appeal shall decide on *forum non conveniens* in civil proceedings and on third instance civil and administrative proceedings. The Highest Judge of Appeal shall decide, as a judge of last resort, on appeals lodged in criminal proceedings, also concerning the lawfulness of personal and property-related precautionary measures, as well as on the enforcement of sentences.

5. The Judge for Extraordinary Remedies shall decide on conflicts between civil, criminal and administrative jurisdictions, on appeals for the review of criminal judgements, on *querela nullitatis* (complaint for annulment) and *restitutio in integrum* (reinstatement) in civil proceedings, as well as on objections of Magistrates and on requests for abstention submitted while objection proceedings are pending.



Chapter I⁹ **Conflicts of Jurisdiction**

Art. 18 *(Conflicts of jurisdiction)*

1. A member of the Guarantors' Panel shall decide on the conflicts of jurisdiction referred to in Article 37 of Law no. 68 of 28 June 1989, including pleas for lack of jurisdiction of San Marino judicial authority in civil proceedings referred to in Article 2, number 3, first part of Law no. 13 of 5 June 1923.

Art. 19 *(Conflict between ordinary and administrative jurisdiction)*

1. The conflict of jurisdiction between the ordinary and the administrative judge may be raised at the request of one of the parties or *ex officio*, in accordance with the following provisions.
2. The Judge may establish at any time the lack of jurisdiction, including through the final judgement.
3. The parties in the first instance administrative proceedings shall lodge a complaint for lack of jurisdiction within the end of the hearing fixed for the first time.
4. In ordinary civil proceedings, the lack of jurisdiction shall be raised by the parties within the statutory time-limit fixed for responding and raising objections, whereas in summary documentary proceedings within the time-limit fixed for the appeal.
5. The fact that the parties did not raise the lack of jurisdiction, or that the judge failed to identify it, shall not remedy the lack of jurisdiction, which may also be raised on appeal. However, if the defendant, respondent or intervener fails to raise the lack of jurisdiction in a timely manner within the prescribed time-limit, such party shall be obliged to reimburse the legal costs incurred by the plaintiff or complainant as a result of such lack of action.
6. If the Judge does not consider the lack of jurisdiction raised by the parties to be manifestly ill-founded, and where the Judge raises the lack of jurisdiction *ex officio*, he shall grant the parties a time-limit of thirty calendar days to submit any pleadings. Upon

6. Proceedings falling within the competence of the Highest Judges of Appeal and of the Judges for Extraordinary Remedies shall be subject to the procedural provisions in force, including those of Law no. 55 of 25 April 2003 in so far as compatible.

7. The Highest Judge of Appeal and the Judge for Extraordinary Remedies shall be required to abstain and may be objected to by the parties in the cases provided for by law. The abstention and objection of the Highest Judges of Appeal shall be decided by the Judge for Extraordinary Remedies who is expert in the matter related to the proceedings where the relevant application is submitted.

8. The abstention and objection of the Judges for Extraordinary Remedies and of the Judges for Civil Liability Actions of Magistrates shall be decided by the Guarantors' Panel on the Constitutionality of Rules as a single-judge body. If the application for abstention or objection is admitted, the proceedings shall be transmitted by the Court Registry to the other Judge performing the same jurisdictional functions of the one objected to.

⁹ The Highest Judge of Appeal and the Judge for Extraordinary Remedies shall be competent for the conflicts concerning civil and administrative jurisdiction. See Constitutional Law no. 1 of 7 December 2021, in particular the note to Title VII, "Jurisdictional functions provided for by Article 9 of Law no. 36 of 26 February 2002", which sets out the full text of Article 3 of Constitutional Law no. 1/2021.



expiry of this time-limit, the case file shall be transmitted to the Registry of the Guarantors' Panel.

7. Once he has received all documents, the President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel, who shall decide within thirty days.

8. The judgement shall be filed with the Registry of the Guarantors' Panel, which shall notify it to the parties and subsequently transmit it to the judicial authority before which the proceedings are pending, together with the case file, which shall be returned.

9. The proceedings shall be suspended from the day of the admissibility decree until the day on which the documents are returned.

Art. 20

(Pleas for lack of jurisdiction in civil proceedings)

1. Pleas for lack of international jurisdiction, referred to in Heading II of Book II of *Leges Statutae Reipublicae Sancti Marini*, shall be decided by a member of the Guarantors' Panel.

2. The judge before whom the proceedings in which the plea for lack of jurisdiction has been raised are pending shall fix a time-limit of four days for all parties, during which they may submit evidence, pleadings and arguments. Upon expiry of this time-limit, the case file shall be transmitted to the Guarantors' Panel.

3. Once he has received the documents, the President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel, designated in accordance with the criteria established by the regulations referred to in Article 38 of this Law; within twenty days, such member of the Guarantors' Panel shall fix the hearing for the debate on the plea.

4. The designated member, having gathered the evidence submitted by the parties and heard the concluding submissions, shall keep the case file for the purpose of adopting a decision, which shall be filed within thirty calendar days. The deciding member may postpone the debate at the request of the parties if, in order to guarantee the principle of cross-examination, a more in-depth examination of the evidence is necessary, by fixing an ad-hoc hearing.

5. The judgement shall be deposited with the Registry of the Guarantors' Panel, which, after its registration, shall notify it to the parties and subsequently transmit it to the Court Registry, together with the case file, which shall be returned.

6. The proceedings shall be suspended from the day on which the documents are transmitted to the Guarantors' Panel until the day on which they are returned.

Chapter II

Abstention and Objection of Magistrates

[REPEALED]¹⁰

¹⁰ **Original text (Qualified Law no. 55/2003)**

Art. 21

(Competence to rule on abstention and objection)

1. A member of the Guarantors' Panel shall decide on the abstention and objection of judges and of the Procuratore del Fisco pursuant to Article 17 of [Law no. 83 of 28 October 1992 (Judicial System)].

Art. 22

(Mandatory abstention)



Chapter III¹¹

Appeals in criminal proceedings concerning the lawfulness of precautionary measures or the enforcement of sentences

Art. 24

(Lawfulness of precautionary measures and enforcement of sentences in criminal proceedings)

1. A member of the Guarantors' Panel shall be responsible for deciding, as a judge of last resort, on appeals lodged in criminal proceedings concerning the lawfulness of personal

-
1. The Judge or the Procuratore del Fisco who is subject to one of the grounds for mandatory abstention set out in Article 17 of Law no. 83 of 28 October 1992 (Judicial System) shall declare it and request the Guarantors' Panel to relieve him of the responsibility for hearing and deciding the proceedings in which the incompatibility arises.
 2. Once notified to the parties, the application shall be transmitted to the Registry of the Guarantors' Panel together with the documents of the proceedings. The application shall specify and provide the evidence.
 3. The President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel, who shall decide within thirty days.
 4. The judgement shall be filed with the Registry of the Guarantors' Panel, which shall notify it to the parties and to the Judge, and transmit it to the Court Registry, together with the case file, which shall be returned.
 5. The above provisions shall also apply in case of mandatory abstention of a member of the Guarantors' Panel.

Art. 23

(Objection)

1. The Judges and the Procuratore del Fisco may be objected to by the parties in the cases specified in Article 17 of Law no. 83 of 28 October 1992 (Judicial System).
2. The application for objection shall be placed on records and shall specify in detail the grounds for objection provided for by law and the supporting evidence.
3. The Judge, upon receipt of the application, shall inform the Head Magistrate thereof and transmit it immediately to the Guarantors' Panel, together with the case file.
4. The President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel who, within the following three days, shall grant the parties and the Judge objected to a time-limit of ten calendar days for the filing of pleadings, arguments and documentary evidence. Pleadings and evidence shall be available to the parties and the Judge, who shall be entitled to take copies thereof. If witness evidence is requested, the designated member of the Guarantors' Panel shall fix a hearing for the taking of evidence, which shall take place in accordance with the principle of cross-examination. Upon expiry of the above time-limit and once any evidence is collected, final pleadings shall be filed within the following ten days, after which the case shall be decided, and the relevant decision shall be deposited within thirty days.
5. The judgement shall be filed with the Registry of the Guarantors' Panel, which shall notify it to the parties and to the Judge objected to, and transmit it to the Court Registry, together with the case file, which shall be returned.
6. If, after the deposit of an application for objection, urgent and unpostponable procedural acts are necessary, or when the parties may suffer from an unjust and irreparable damage pending the objection proceedings, the designated member of the Guarantors' Panel, upon request by a party, may order the transmission of copies of the documents of the proceedings to the Head Magistrate, who shall appoint, under the rules on the distribution of judicial work and respecting the principle of professional competence, the judge responsible for taking such measures in place of the judge objected to.
7. If, following the deposit of the application for objection, the judge declares his intention to abstain, the provisions on abstention shall apply and the objection proceedings shall be extinguished.
8. The above provisions shall also apply in case a member of the Guarantors' Panel is objected to.

Legislative amendments

Qualified Law no. 2 of 16 September 2011, Article 10, paragraph 7:

The provisions of Article 9 of this Law and those of the relevant rules of procedure shall also apply to pending proceedings; until the entry into force of the rules of procedure governing abstention and objection, the provisions of Qualified Law no. 55 of 25 April 2003 shall continue to apply.

See also **Law no. 139 of 16 September 2011**, "RULES OF PROCEDURE GOVERNING ABSTENTION AND OBJECTION OF MAGISTRATES", as amended by **Law no. 23 of 2 March 2022**.

¹¹ The Highest Judge of Appeal shall decide, as a judge of last resort, on appeals lodged in criminal proceedings concerning the lawfulness of personal and property-related precautionary measures, or on the enforcement of sentences. See Constitutional Law no. 1 of 7 December 2021, in particular the note to Title VII, "Jurisdictional functions provided for by Article 9 of Law no. 36 of 26 February 2002", which sets out the full text of Article 3 of Constitutional Law no. 1/2021.



and property-related precautionary measures adopted during the proceedings or on the enforcement of sentences.

2. The appeal shall not suspend the enforcement of the measure appealed against. However, upon a specific and reasoned application, the suspension of the sentence may be ordered, after having heard all the parties involved, when its enforcement may entail an unjust and irreparable damage to the party. Such suspension may be subject to an appropriate bail.

Art. 25

(Proceedings and Decision)

1. The appeal shall be filed with the Criminal Registry by the interested party and by the Procuratore del Fisco, within the mandatory time-limit of thirty calendar days from the notification of the decree.

2. After having notified the appeal to all parties and the Procuratore del Fisco, the First Instance Judge shall transmit the case file to the Guarantors' Panel.

3. The President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel, who shall grant to the parties and the Procuratore del Fisco a time-limit of ten calendar days for the filing of any pleadings and arguments.

4. Upon expiry of the above time-limit, the designated member of the Guarantors' Panel shall fix the hearing for the discussion, which shall take place within the following twenty days.

5. The decision shall be filed within ten days from the hearing fixed for the discussion. Such decision shall be notified by the Registry of the Guarantors' Panel to the parties and to the Procuratore del Fisco, and shall be transmitted to the Criminal Registry together with the case file.

Chapter IV¹²

Third instance administrative and civil proceedings

Art. 26

(Appeals in case of divergence between first and second instance civil and administrative judgements)

1. A member of the Guarantors' Panel shall decide third instance appeals in case of divergence between first and second instance judgements in civil and administrative proceedings.

2. The appeal shall be admitted if the second instance judgement has modified, in whole or in part, that of first instance. The member of the Guarantors' Panel shall choose which of the two judgements, or which of the diverging parts of the decision contained in the judgements, shall become *res iudicata*.

¹² Jurisdiction over third instance appeals in administrative and civil proceedings lies with the Highest Judge of Appeal. See Constitutional Law no. 1 of 7 December 2021, in particular the note to Title VII, "Jurisdictional functions provided for by Article 9 of Law no. 36 of 26 February 2002", which sets out the full text of Article 3 of Constitutional Law no. 1/2021.



Art. 27

(Third instance administrative proceedings)

1. In case of divergence between first and second instance judgements, or between parts thereof, the Judge of Appeal in administrative matters shall order the Court Registry to transmit the entire case file to the Guarantors' Panel, by depositing it with the latter's Registry.
2. The President of the Guarantors' Panel shall immediately assign the case file to a member of the Guarantors' Panel by means of a decree. Such decree shall be immediately notified by the Registry of the Guarantors' Panel to the parties, who may deposit their pleadings within fifteen days following the notification. Within the same time-limit, an objection application may be submitted against the designated member and, in this case, the proceedings shall remain suspended until a decision is made on the objection.
3. In the event of divergence between first and second instance judgements, third instance proceedings shall not be initiated if the private party, who was unsuccessful in the appeal, waives the proceedings within fifteen days from the notification of the appeal judgement, by filing a declaration with the Registry of the Guarantors' Panel.
4. The judgement shall be deposited with the Registry of the Guarantors' Panel within ninety days after the time-limit specified in the second paragraph of this Article.
5. The judgement shall be notified to the interested parties by the Registry of the Guarantors' Panel, which shall also transmit the entire case file to the Registry of the Administrative Court.

Art. 28

(Third instance civil proceedings)

1. In the event of divergence between first and second instance judgements, or between parts thereof, in civil proceedings, the unsuccessful party in the appeal proceedings may submit an appeal to the Guarantors' Panel within thirty days from the notification of the appeal judgement.
2. The appeal shall be placed on records of the relevant civil proceedings at the Court Registry. After receiving the appeal, the Head Magistrate¹³ shall order that the case file be transmitted to the Guarantors' Panel.
3. The President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel, who shall notify the appeal to the opposing parties and assign to all parties a thirty-day time-limit to file their pleadings. Within the same time-limit, an objection application may be submitted against the designated member and, in this case, the proceedings shall remain suspended until a decision is made on the objection.
4. With regard to the case file, a decision shall be made as to which of the two conflicting judgements, or which parts thereof, should be adopted within fifteen days after the expiry of the time-limit indicated in the preceding paragraph; during this period, the parties may have access to the documents and deposit additional arguments.

¹³ See the note to Article 14 of Constitutional Law no. 1 of 7 December 2021, in particular Article 1, paragraph 4 of Constitutional Law no. 1 of 21 March 2025.



5. The judgement shall be filed with the Registry of the Guarantors' Panel in the following ninety days and it shall be considered published when it is filed.
6. After its filing, the Registry of the Guarantors' Panel shall notify the judgement to the interested parties and transmit the case file, together with the decision, to the Registry of the Civil Court.

Chapter V¹⁴

Review of criminal judgements

Art. 29

1. A member of the Guarantors' Panel shall decide on appeals for the review of criminal judgements referred to in Articles 200 and 201 of the Code of Criminal Procedure, as amended by [Law no. 20 of 24 February 2000]¹⁵.
2. The application shall be filed with the Registry of the Criminal Court, by enclosing any documents. The above Registry shall transmit the case file to the Guarantors' Panel.
3. The President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel, who shall enforce the provisions of Articles 200 and 201 of the Code of Criminal Procedure, in so far as applicable.
4. The judgement shall be deposited with the Registry of the Guarantors' Panel, which shall notify it to the appellant and subsequently transmit the case file with the decision to the Registry of the Criminal Court.

¹⁴ The Judge for Extraordinary Remedies shall be competent to review criminal judgements. See Constitutional Law no. 1 of 7 December 2021, in particular the note to Title VII, "Jurisdictional functions provided for by Article 9 of Law no. 36 of 26 February 2002", which sets out the full text of Article 3 of Constitutional Law no. 1/2021.

See also Article 201 of the Code of Criminal Procedure, as amended by Article 26 of Law no. 24 of 2 March 2022:

Art. 201
(Review)

1. The application for review shall be submitted in writing and shall indicate the details of the measure appealed against and the relevant grounds, with specific indication of the evidence and reasons on which the application is based.
2. Upon submission of the application for review, or subsequently, the parties entitled thereto may appoint a counsel of their own choosing.
3. The application shall be filed with the Court Registry, together with any supporting documents, within one year from the discovery of the new evidence or facts referred to in the first paragraph of Article 200, letters a) and b), from the date on which the decision referred to in the first paragraph of Article 200, letter c) has become final, or from the date on which the judgement of the European Court of Human Rights has become final under the circumstances referred to in the first paragraph of Article 200, letter d).
3. The Judge for Extraordinary Remedies shall be responsible for deciding on the application for review.
4. The Judge shall declare the application for review inadmissible by means of a decree if it is submitted in a case other than those provided for by law, by a person not entitled thereto or in case of non-compliance with the prescribed forms, time-limits and requirements. If the application is found to be inadmissible, the Judge may suspend the enforcement of the sentence or of the security measure by means of a reasoned decree and may apply, if necessary, a precautionary measure.
5. If the application for review is admitted, the Judge shall revoke the measure appealed against and shall adopt the related measures.
6. If the application is rejected or declared inadmissible, the Judge shall order the applicant to pay the costs of the proceedings. In case of suspension of the sentence or of the security measure, the Judge shall order that its enforcement be resumed.

¹⁵ See also the amendments to Articles 200 and 201 of the Code of Criminal Procedure, as amended by Articles 2, 3 and 4 of Law no. 89 of 27 June 2003, Articles 3 and 4 of Law no. 172 of 1 December 2005, and Article 26 of Law no. 24 of 2 March 2022, which replaced Article 201 of the Code of Criminal Procedure. See also the previous note.



Chapter VI¹⁶
Restitutio in integrum and querela nullitatis

Art. 30
(Competence and time-limits)

1. A member of the Guarantors' Panel shall decide on *restitutio in integrum* and *querela nullitatis* against final civil judgements and against arbitration awards that cannot be appealed against under Law no. 81 of 14 June 1995.
2. *Querela nullitatis* shall be filed with the Registry of the Guarantors' Panel within thirty days from the final judgement or the notification of the arbitration award that cannot be appealed against.
3. *Restitutio in integrum* shall not be filed if a period of four years has elapsed from the final judgement or from the notification of the arbitration award that cannot be appealed against.

Art. 31
(Appeal)

1. Appeals referred to in Article 30 shall be lodged before the Guarantors' Panel and shall be deposited with the Court Registry, which shall include them in the relevant case file. The Court Registry shall open a specific case file in the event of an appeal against arbitration awards that cannot be appealed against, to which a certified copy of the award appealed against shall be included in order for the appeal to be admissible.
2. The appeal shall indicate the reasons for seeking *restitutio in integrum* or the nullity of the judgement or award.
3. Within twenty days from its filing, the Court Registry shall transmit the appeal, together with a certified and integral copy of the case file, to the Registry of the Guarantors' Panel, and shall notify it to the other parties involved.
4. The appeal shall not suspend the enforcement of the sentence or of the award appealed against. However, upon a specific and reasoned application, the Guarantors' Panel may order the suspension of the enforcement, after having heard all the parties involved, when enforcement may entail an unfair and irreparable damage to the party. Such suspension may be subject to an appropriate bail.

Art. 32
(Proceedings)

1. After receiving the documents, the President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel.
2. The appellant, within a mandatory thirty-day time-limit following the appeal, and the other parties involved, within a mandatory thirty-day time-limit following its notification,

¹⁶ The Judge for Extraordinary Remedies shall be competent for *restitutio in integrum* and *querela nullitatis*. See Constitutional Law no. 1 of 7 December 2021, in particular the note to Title VII, "Jurisdictional functions provided for by Article 9 of Law no. 36 of 26 February 2002", which sets out the full text of Article 3 of Constitutional Law no. 1/2021.



may deposit their arguments and conclusions with the Registry of the Guarantors' Panel. Within the same time-limit, an objection application may be lodged against the designated member and, in this case, the proceedings shall remain suspended until a decision is made on the objection.

3. The case file shall be held pending the decision on the appeal, which shall be rendered within fifteen days after the expiry of the time-limit referred to in the preceding paragraph; during this period, the parties may have access to the documents and deposit additional arguments. The judgement shall be filed with the Registry of the Guarantors' Panel within the following ninety days and it shall be considered published when it is filed.

4. The Registry of the Guarantors' Panel shall notify the judgement to the interested parties and transmit it with the case file to the Registry of the Civil Court for the fulfilment of the subsequent requirements falling under its competence.

Chapter VII

Referral, transitional and coordination provisions

Art. 33 *(Referral)*

1. In respect of any matters not provided for herein, the rules of civil, criminal and administrative procedure in force shall continue to apply to the individual institutions referred to in this Title, provided that they have not been expressly repealed or are not otherwise in conflict with the provisions of this Law.

2. The substantive and procedural rules in force shall apply to the proceedings before the Guarantors' Panel, insofar as compatible.

Art. 34 *(Forms of appeal)*

1. Any appeal referred to in this Title shall be drawn up in writing. It shall be brought before the Guarantors' Panel, contain a clear and detailed statement of the facts, the supporting evidence deemed necessary by the appellant, as well as the reasons in law at the basis of the appeal.

2. The appellant shall complete the appeal with a clear and detailed indication of the requested decision.

Art. 35 *(Transitional rule)*

1. The appeals referred to in this Title, already transmitted to the consultants identified on the basis of the procedures in force, shall remain assigned to them.

2. The Guarantors' Panel shall be competent for the appeals already deposited with the competent bodies and/or offices but not yet transmitted to the consultant.

3. The Guarantors' Panel shall also be competent for the decisions on appeals transmitted to the consultants, if these have not been decided within the time-limits



granted. In this case, the task conferred shall be deemed revoked and the case files already delivered shall be returned to and deposited with the Registry of the Guarantors' Panel.

4. The Judge of Appeal in criminal matters shall continue to be competent for the appeals for the review of criminal judgements, which have already been assigned to him and not yet decided.

Title VIII

Tax provisions Transitional and final provisions

Art. 36 *(Tax provisions)*

1. The tax treatment of the acts and documents in the proceedings referred to in this Law shall be the following:

- appeals, documents, acts of the proceedings and the decisions of the Guarantors' Panel referred to in Titles III, IV, V and VI shall be exempt from registration and stamp duties. Registration of judgements shall be exempt from duties.
- appeals, documents, acts of the proceedings and the decisions of the Guarantors' Panel referred to in Title VII shall be subject to the registration and stamp duties envisaged by the rules in force for civil, administrative and criminal proceedings respectively.

Art. 37

1. The decisions referred to in Articles 19, 25 and 26 of [Law no. 101 of 28 November 1994], regarding referendum applications which have already been declared admissible by the Judging Panel at the time of the entry into force of this Law, shall remain under the competence of the Judging Panel.

2. Until the Guarantors' Panel takes office, the decisions on referendum applications which have already been deposited shall remain under the competence of the Judging Panel referred to in [Law no. 101 of 28 November 1994]¹⁷.

Art. 38

1. The Guarantors' Panel shall govern the performance of its functions by means of rules of procedure, which shall be approved by a majority of its members, both full members and alternates, and which shall be published in the Official Bulletin.

2. The rules of procedure shall indicate the predetermined criteria for the assignment of the proceedings referred to in Article 9 of Law no. 36 of 26 February 2002.

Art. 39 *(Remuneration)*

¹⁷ Law no. 101 of 28 November 1994 was repealed and replaced by Qualified Law no. 1 of 29 May 2013, which was in turn amended by Qualified Law no. 1 of 17 March 2016 and by Qualified Law no. 2 of 23 August 2016.



1. The full members of the Guarantors' Panel shall receive a monthly special duty allowance. The alternate members shall receive a fee for every appeal or sitting they attend.
2. The special duty allowance and the fee referred to in the preceding paragraph shall be initially established by an ad-hoc Regency Decree, and subsequently governed by law when the reform of the Judicial System is approved.

Art. 40

(Registry of the Guarantors' Panel)

1. The Registry of the Guarantors' Panel is hereby established. It shall be composed of a Registrar and a Secretary, as referred to in Annex "A" to this Law. In case of impediment or absence of the Registrar, he shall be temporarily replaced by an official of the State Institutional Secretariat.
2. The provisions of Law no. 18 of 22 June 1915 (Specifications for the Registrar and Deputy Registrar of the Court) shall apply to the Registrar.
3. For the service of all documents and measures relating to proceedings before the Guarantors' Panel, the latter shall be assisted by the Judicial Officers of the Court.

Art. 41

1. Any provision in contrast with this Qualified Law shall be repealed.



Annex "A"

1 POST

FUNCTIONS

REGISTRAR

- He performs all acts related to the administrative activity, with operational autonomy in accordance with the relevant law provisions, under the direction and supervision of the President and members of the Guarantors' Panel, in the fulfilment of the procedural rules in force.
- He performs all functions concerning preliminary investigations, keeping of case files, notifications and anything else required by the relevant law.
- He is responsible for the organisation and coordination of the work of the administrative staff of the Registry of the Guarantors' Panel.

SPECIAL PROVISIONS

Flexible working hours to meet service needs.

QUALIFICATION

Law degree. (This qualification is a mandatory requirement under the last paragraph of Article 10 of Law no. 86 of 25 April 1980).

EXAM SUBJECTS

Public Law, Administrative Law, Civil Law.

TITLE

Official Responsible for the Operational Unit

SALARY LEVEL

9

1 POST

SECRETARY

FUNCTIONS

- He performs administrative functions in the fulfilment of the tasks entrusted to the Office under the direction of the Registrar.
- Typing, photocopying, keeping registers and filing of dossiers.

SPECIAL PROVISIONS

Flexible working hours to meet service needs.

QUALIFICATION

Lower secondary school with a diploma/specialisation.

EXAM SUBJECTS

Professional subjects, typing.

TITLE

Administrative Operator

SALARY LEVEL

5



CONSTITUTIONAL LAW NO. 67 OF 27 MAY 2003

REGULATIONS GOVERNING THE LIABILITIES OF MEMBERS OF THE GUARANTORS' PANEL

Art. 1

(Removal from office)

The Great and General Council shall remove the members of the Guarantors' Panel from office in the cases provided for by Article 5, paragraph 2 of Qualified Law no. 55 of 25 April 2003.

The existence of the grounds for removal from office shall be established by the Guarantors' Panel by an absolute majority of its full members and alternates.

This issue shall be included in the Agenda of the earliest possible sitting of the Great and General Council. The Council shall declare the removal from office of a member of the Guarantors' Panel by acknowledging the above establishment.

Art. 2

(Removal and suspension)

The members of the Guarantors' Panel may be removed or temporarily suspended from office only upon an ad-hoc decision made by the Great and General Council by a two thirds majority of its members, following a proposal of the Guarantors' Panel by absolute majority of its full members and alternates.

The proposal of the Guarantors' Panel shall be included in the Agenda of the earliest possible sitting of the Great and General Council.

The removal from office or temporary suspension shall take effect from the decision adopted by the Great and General Council.

Art. 3

(Liability of the members of the Guarantors' Panel in the exercise of constitutional and jurisdictional functions)

The members of the Guarantors' Panel shall not be removed or suspended from office, except in case of physical or civil incapacity, serious failures in the exercise of their functions or when they have compromised the respect and moral and professional esteem that they shall deserve.

The members of the Guarantors' Panel suspended from office shall not receive the allowances they are entitled to for the entire duration of their suspension.

The Regulation referred to in Article 38 of Qualified Law no. 55 of 25 April 2003 shall govern suspension.

Art. 4

(Civil liability of the members of the Guarantors' Panel in the exercise of the functions referred to in the Transitional Rule of the Declaration of the Citizens' Rights)



In the performance of the functions referred to in the Transitional Rule of the Declaration of the Citizens' Rights, the members of the Guarantors' Panel shall be subject to the provisions on civil liability of Magistrates in accordance with Article 15 of [Law no. 83 of 28 October 1992]¹⁸.

Art. 5

(Absolute immunity)

The full members and alternates of the Guarantors' Panel shall not be punishable for the opinions expressed and the votes cast in the exercise of their functions.

¹⁸ Law no. 83 of 28 October 1992 was repealed by Constitutional Law no. 144 of 30 October 2003 and by Qualified Law no. 145 of 30 October 2003, which were in turn repealed by Constitutional Law no. 1 of 7 December 2021.



REGULATION NO. 1 OF 24 MARCH 2004

GENERAL REGULATION ON THE ORGANISATION AND EXERCISE OF THE FUNCTIONS OF THE GUARANTORS' PANEL ON THE CONSTITUTIONALITY OF RULES

**CONSOLIDATED TEXT AS AMENDED BY DECREE NO. 34 OF 3 DECEMBER 2020 OF THE
PRESIDENT OF THE GUARANTORS' PANEL.**

TITLE ONE *GENERAL PROVISIONS*

Art. 1

Quorum for the validity of the decisions of the Guarantors' Panel

1. The meetings of the Guarantors' Panel shall not be valid unless three members are present, and decisions shall not be valid unless approved by the majority of those present.

Art. 2

Rotation criteria for alternate members

1. Whenever it is necessary to replace one or more full members, the President of the Guarantors' Panel shall appoint, on a rotating basis, first the most senior alternate member, and then progressively the less senior ones, until the cycle begins again; the same criterion applies when replacing an alternate member who has already replaced another alternate member.

Art. 3

Seniority of members

1. The seniority of each member shall be calculated from the date of his oath, separately for full members and alternate members, unless otherwise expressly specified in this Regulation; where the date of the oath is the same, age shall be taken into account.

Art. 4

Causes for abstention and objection of the members of the Guarantors' Panel

1. The causes for abstention and objection of the members of the Guarantors' Panel shall be exclusively those provided for in Article 10 of Qualified Law no. 145/2003, which replaced Article 17 of Law no. 83/1992 referred to in Article 6 of Qualified Law no. 55/2003 and subsequent amendments.



2. The decision shall be adopted by the Guarantors' Panel in the manner and within the time-limits envisaged in Chapter II of Title VII of Qualified Law no. 55/2003 and subsequent amendments.

3. Until the judgement has been issued by the Guarantors' Panel in accordance with paragraph 2 of this Article, all time-limits related to the tasks of the Guarantors' Panel in connection with proceedings to which the abstention or objection issues raised relate shall remain suspended.

Art. 5

Prohibition on abstaining from voting and on casting a blank vote on jurisdictional matters

1. In meetings relating to jurisdictional matters, the members of the Guarantors' Panel shall neither abstain from voting nor cast a blank vote, but they shall vote either for or against the proposed decision put to the vote by the chairperson of the meeting.

Art. 6

Postponement of the case to a later date and instances where a new Guarantors' Panel is established

1. If, during the handling of a case, the number of members of the Guarantors' Panel is reduced to less than three members due to absence, the case shall be postponed by the President of the Guarantors' Panel to a later date, without prejudice to the application of the provision referred to in the second paragraph of this Article.

2. If, due to resignation or other cause of termination of office of one of the members, the Guarantors' Panel in charge of handling and deciding on a case is reduced to less than three members, the President shall establish a new Guarantors' Panel and set the date for the first hearing.

Art. 7

Publicity and minutes of the hearings

1. Pursuant to Article 7 of Qualified Law no. 55/2003, the hearings of the Guarantors' Panel referred to in Titles III, IV, V and VI of such Law shall be public; in the other cases, they shall be public unless otherwise decided by the President of the Guarantors' Panel by means of a reasoned decree on grounds of national security, public order or public morality.

2. The Registrar shall draw up the minutes under the direction of the President; the minutes shall be signed by the President and the Registrar.

Art. 8

Preliminary investigations and report for the Guarantors' Panel

1. During each first hearing having a jurisdictional nature, before the discussion, the Guarantors' Panel shall hear the report of the judge appointed by the President to carry out preliminary investigations and draw up the report.



2. The President of the Guarantors' Panel shall appoint a full member, including himself, as rapporteur within the time-limits provided for in this Regulation for each type of proceedings. If, however, all full members are prevented from attending or absent, the acting President shall appoint an alternate member, including himself, in accordance with the rotation criterion referred to in Articles 2 and 3.

3. If the rapporteur is prevented from attending the hearing due to incompatibility or announces his absence in advance or is in any case absent, the President may replace him or ask another member of the Guarantors' Panel if he considers himself capable of replacing the rapporteur; otherwise, the hearing shall be postponed to a later date or the case is transferred to another register, as the case may be.

Art. 9

Closed session

1. Voting shall take place in closed session. The only external participant shall be the Registrar, if so requested by the President and upon consent of the Guarantors' Panel. In such cases, the Registrar shall be bound to secrecy regarding what he has heard and seen.

2. The youngest member shall be the first to vote, except for the President of the meeting, who shall be the last to vote.

3. No one shall be permitted to disclose how individual voters have cast their votes.

Art. 10

Name and form of the decisions of the Guarantors' Panel

1. In jurisdictional matters, the Guarantors' Panel shall decide by means of a judgement in all cases where this is required by law, or shall in any case provide a final ruling, or by means of an order in the other cases. Judgements and orders shall bear the date of their decision and the progressive number for each year, and shall be published in a specific official collection, which shall also indicate the date and number of the Official Bulletin in which they were published. The specific provisions of Article 44 of this Regulation shall apply.

2. With regard to non-jurisdictional matters, the Guarantors' Panel shall approve regulations, which bear the name "Regulation", the date and the progressive number for each year, and shall decide on other matters by acts bearing the name "Decision", the date and the progressive number for each year.

3. The President shall adopt decisions by decree; decrees shall bear the date of enactment and the progressive number for each year.

Art. 11

Publication of judgements and orders, and publicity of decrees

1. Judgements and orders issued in the context of proceedings concerning the constitutionality of rules, admissibility of referenda, conflicts between State bodies and institutional liability of the Captains Regent shall be published in accordance with Article 30 of Law no. 21 of 11 March 1981 and subsequent amendments and integrations, and shall be included in the Official Bulletin.



2. The President's decrees shall be published in accordance with paragraph 1 of this Article when they are of interest to the entire community.
3. All decisions adopted by the Guarantors' Panel shall be filed with its Registry. Anyone shall be entitled to examine them and obtain a copy thereof.

Art. 12

Representation and defence before the Guarantors' Panel

1. For any appeal and for participation in the proceedings before the Guarantors' Panel, the parties, excluding the Procuratore del Fisco, shall be represented and assisted by lawyers, pursuant to paragraphs 1 and 2 of Article 9 of Qualified Law no. 55/2003.
2. The State and its bodies shall be assisted by the State Lawyers' Office, pursuant to paragraph 4 of Article 9 of Qualified Law no. 55/2003.

Art. 13

Joinder of proceedings

1. The President, either *ex officio* or upon request of the parties, may order that two or more cases be discussed jointly at the same hearing, where appropriate.
2. After the discussion, the Guarantors' Panel shall decide whether and which cases should be joined in order to pass a single judgement.
3. The President may also order that two or more cases, discussed at separate hearings, be decided, where appropriate, in the same closed session and, if necessary, be joined in order to pass a single judgement.

Art. 14

Suspension, interruption and termination of proceedings

1. The rules on the suspension, interruption and termination of proceedings shall not apply to proceedings before the Guarantors' Panel.

Art. 15

Notifications, communications and filing with the Registry

1. Where the rules require notification, this shall be carried out by the Registrar in accordance with the provisions in force on notifications.
2. When the rules provide for communications or when communications are necessary or appropriate, they shall be made by delivering the written communication to the address for service of the interested party, signed in original by the competent person in the cases provided for by the rules, or otherwise by the Registrar following an order by the President or in the cases provided for by the rules. Communications may also be made by fax or email; in this case, immediately after the communication is made, the Registrar shall file with the Registry the original of the written document already communicated, which the interested parties may examine and of which they may take copies. The Registrar shall record the date and time of the communication and the name of the person or office that received it in a specific register; if time-limits



start to run from the date of the communication, they shall start to run from the date of the communication made pursuant to the provisions of this Article.

3. The decrees of the Guarantors' Panel and its members may be filed with the Registry by fax or by email; in this case, the original shall be forwarded to the Registry. The Registrar shall carry out the formalities falling within his competence, including notifications, on the basis of the documents received, also by fax or email, from the members of the Guarantors' Panel.¹⁹

Art. 15 bis

Notification of documents via the certified electronic delivery service

1. The decisions adopted by the Guarantors' Panel may be notified via tNotice service, with the same effect as notifications by hand by a Court Judicial Officer. In this case, the provisions in force on unclaimed mail shall apply. This procedure shall only be used where the recipients are enrolled in the Professional Associations. This is without

¹⁹ **Original text (Regulation no. 1 of 24 March 2004)**

1. Where the rules provide for notifications, these shall be made by the Registrar in accordance with the provisions in force on notifications; however, it shall be permitted to notify a document by fax, provided that the fax faithfully reproduces the entire original document, including the handwritten signature and the date, that the party's lawyer has indicated in his entry of appearance the fax number at his address for service, and that the transmission mechanism prints at the sender's premises a receipt of successful transmission, which shall be kept on file. In this case, the original document shall be filed with the Registry as soon as possible, without prejudice to the right of the party concerned or his representative to check at any time that the original corresponds fully and completely with the document sent by fax. In the case of a document notified by fax in accordance with the provisions of this Article, the time-limits shall start to run from the time of the notification, unless it is proved by comparison that the fax does not correspond to the original.

2. When the rules provide for communications or when communications are necessary or appropriate, they shall be made by delivering the written communication to the address for service of the interested party, signed in original by the competent person in the cases provided for by the rules, or otherwise by the Registrar following an order by the President or in the cases provided for by the rules. Communications may also be made by fax or email; in this case, immediately after the communication is made, the Registrar shall file with the Registry the original of the written document already communicated, which the interested parties may examine and of which they may take copies. The Registrar shall record the date and time of the communication and the name of the person or office that received it in a specific register; if time-limits start to run from the date of the communication, they shall start to run from the date of the communication made pursuant to the provisions of this Article.

3. The decrees of the Guarantors' Panel and its members may be filed with the Registry by fax; in this case, the original shall be forwarded to the Registry. The Registrar shall carry out the formalities falling within his competence, including notifications, on the basis of the documents received, also by fax, from the members of the Guarantors' Panel.

Legislative amendments

Decree of the President of the Guarantors' Panel no. 11 of 3 July 2014:

Article 15 of Regulation no. 1 of 24 March 2004 - "General Regulation on the organisation and exercise of the functions of the Guarantors' Panel on the Constitutionality of Rules" - shall be amended as follows:

"Art. 15 - *Notifications, communications and filing with the Registry*

1. Where the rules require notification, this shall be carried out by the Registrar in accordance with the provisions in force on notifications.

2. When the rules provide for communications or when communications are necessary or appropriate, they shall be made by delivering the written communication to the address for service of the interested party, signed in original by the competent person in the cases provided for by the rules, or otherwise by the Registrar following an order by the President or in the cases provided for by the rules. Communications may also be made by fax or email; in this case, immediately after the communication is made, the Registrar shall file with the Registry the original of the written document already communicated, which the interested parties may examine and of which they may take copies. The Registrar shall record the date and time of the communication and the name of the person or office that received it in a specific register; if time-limits start to run from the date of the communication, they shall start to run from the date of the communication made pursuant to the provisions of this Article.

3. The decrees of the Guarantors' Panel and its members may be filed with the Registry by fax or by email; in this case, the original shall be forwarded to the Registry. The Registrar shall carry out the formalities falling within his competence, including notifications, on the basis of the documents received, also by fax or email, from the members of the Guarantors' Panel."



prejudice to the right of the Guarantors' Panel to order, on proven grounds, that the document be served by hand.

2. The State Institutional Secretariat – Registry of the Guarantors' Panel shall issue a certified digital copy of the document to be served, in accordance with Article 85 ter of Decree no. 156/2005, as introduced by Article 4 of Delegated Decree no. 9/2020, and shall transmit it to the recipient via tNotice service. Compliance with this formality shall be certified by the notification report, accompanied by the relevant acknowledgement of receipt and the Forensic Postal Certificate.

3. The date of receipt of the document notified via tNotice service shall correspond to the date of delivery of the electronic registered mail containing the court document and shall be the date certified by the relevant Forensic Postal Certificate. If the recipient fails to collect the electronic registered mail, the date of receipt shall be deemed to be the date on which the time-limit for unclaimed mail expires; for the persons referred to in paragraph 1, such time-limit shall be three calendar days. If the failure to collect the electronic registered mail, once the time-limit for unclaimed mail has expired, is due to unforeseeable circumstances or force majeure, the Guarantors' Panel shall reinstate the time-limit for the professional who is the addressee of the registered mail.

4. Once the State Institutional Secretariat – Registry of the Guarantors' Panel has obtained the receipt signed by the addressee or the electronic document certifying that the mail was not collected after the time-limit for unclaimed mail had expired, it shall make a simple mechanical reproduction of the acknowledgement of receipt and the Forensic Postal Certificate and shall include them in the case file, together with the notification report.

5. The State Institutional Secretariat – Registry of the Guarantors' Panel shall ensure that the mechanical reproduction of the acknowledgement of receipt and the Forensic Postal Certificate also includes the electronic mark.

6. The State Institutional Secretariat – Registry of the Guarantors' Panel shall also keep the acknowledgement of receipt and the Forensic Postal Certificate in electronic format in accordance with the procedures adopted by the Public Administration, and in particular those laid down in Regulations no. 8 and no. 9 of 30 December 2013.

7. Notifications to the State Lawyers' Office and the Administration may be made via the Administration's electronic registration system. In this case, the State Institutional Secretariat – Registry of the Guarantors' Panel shall extract a certified digital copy of the document to be notified and shall transmit it to the recipient via the document management system with an electronic annotation. Compliance with this formality and the related acknowledgement of receipt shall be certified by the rendition of the document generated by the system; the rendition shall also certify the date of receipt of the document notified. The State Institutional Secretariat – Registry of the Guarantors' Panel shall make a mechanical reproduction of the rendition and shall include it in the case file.²⁰

²⁰ **Original text (Decree of the President of the Guarantors' Panel no. 34 of 3 December 2020)**

After Article 15 of Regulation no. 1 of 24 March 2004 - "General Regulation on the organisation and exercise of the functions of the Guarantors' Panel on the Constitutionality of Rules" - the following Articles shall be added:

"Article 15 bis - Notification of documents via certified electronic delivery service"

1. The decisions adopted by the Guarantors' Panel may be notified via tNotice service, with the same effect as notifications by hand by a Court Judicial Officer. In this case, the provisions in force on unclaimed mail shall apply. This procedure shall only be used where the recipients are enrolled in the Professional Associations. This is without prejudice to the right of the Guarantors' Panel to order, on proven grounds, that the document be served by hand.



Art. 15 ter

Filing of acts and documents via certified electronic delivery service

1. Documents relating to proceedings before the Guarantors' Panel, drawn up by members of Professional Associations and by the State Lawyers' Office pursuant to Article 3 bis, paragraph 1, letters a) and b) of Decree no. 156 of 8 November 2005, as added by Article 3 of Delegated Decree no. 9/2020, may be filed, provided they are signed with a qualified electronic signature, with the State Institutional Secretariat – Registry of the Guarantors' Panel, respectively via transmission through tNotice service and via the Administration's electronic registration and document management system. For all legal purposes, they shall be treated in the same way as paper documents, the original copy of which is filed with the State Institutional Secretariat.

8. The State Institutional Secretariat shall extract a certified paper copy in accordance with the formalities set out in Article 85 quater of Delegated Decree no. 156/2005, as added by Article 4 of Delegated Decree no. 9/2020, which shall be included in the case file, of which it forms an integral part. The State Institutional Secretariat shall keep the original copy in accordance with the procedures laid down in Regulations no. 8 and no. 9 of 30 December 2013.

2. The date and time of filing of a document with the Registry transmitted via tNotice service shall be those specified in the acknowledgement of receipt; the date and time of filing of a document with the Registry submitted via the Administration's electronic registration and document management system shall be those indicated in the details of the incoming delivery.

2. The State Institutional Secretariat – Registry of the Guarantors' Panel shall issue a certified digital copy of the document to be served, in accordance with Article 85 ter of Decree no. 156/2005, as introduced by Article 4 of Delegated Decree no. 9/2020, and shall transmit it to the recipient via tNotice service. Compliance with this formality shall be certified by the notification report, accompanied by the relevant acknowledgement of receipt and the Forensic Postal Certificate.

3. The date of receipt of the document notified via tNotice service shall correspond to the date of delivery of the electronic registered mail containing the court document and shall be the date certified by the relevant Forensic Postal Certificate. If the recipient fails to collect the electronic registered mail, the date of receipt shall be deemed to be the date on which the time-limit for unclaimed mail expires; for the persons referred to in paragraph 1, such time-limit shall be three calendar days. If the failure to collect the electronic registered mail, once the time-limit for unclaimed mail has expired, is due to unforeseeable circumstances or force majeure, the Guarantors' Panel shall reinstate the time-limit for the professional who is the addressee of the registered mail.

4. Once the State Institutional Secretariat – Registry of the Guarantors' Panel has obtained the receipt signed by the addressee or the electronic document certifying that the mail was not collected after the time-limit for unclaimed mail had expired, it shall make a simple mechanical reproduction of the acknowledgement of receipt and the Forensic Postal Certificate and shall include them in the case file, together with the notification report.

5. The State Institutional Secretariat – Registry of the Guarantors' Panel shall ensure that the mechanical reproduction of the acknowledgement of receipt and the Forensic Postal Certificate also includes the electronic mark.

6. The State Institutional Secretariat – Registry of the Guarantors' Panel shall also keep the acknowledgement of receipt and the Forensic Postal Certificate in electronic format in accordance with the procedures adopted by the Public Administration, and in particular those laid down in Regulations no. 8 and no. 9 of 30 December 2013.

7. Notifications to the State Lawyers' Office and the Administration may be made via the Administration's electronic registration system. In this case, the State Institutional Secretariat – Registry of the Guarantors' Panel shall extract a certified digital copy of the document to be notified and shall transmit it to the recipient via the document management system with an electronic annotation. Compliance with this formality and the related acknowledgement of receipt shall be certified by the rendition of the document generated by the system; the rendition shall also certify the date of receipt of the document notified. The State Institutional Secretariat – Registry of the Guarantors' Panel shall make a mechanical reproduction of the rendition and shall include it in the case file".



3. The provisions governing the use of IT tools in the context of judicial activities, as set out in Decree-Law no. 124 of 27 July 2020, shall apply insofar as they are compatible.²¹

Art. 16

Correction of omissions or clerical errors in judgements, orders and decrees

1. The President, after consulting the Guarantors' Panel, shall correct any omissions or clerical errors in judgements or orders by means of a decree, also *ex officio*.
2. The correction decree shall be noted on the original copy of the corrected judgement or order, notified to the parties joining the proceedings and published in the Official Bulletin.
3. The President of the Guarantors' Panel shall correct any omissions or clerical errors in his decrees by means of a decree, notifying the parties concerned thereof; the correction decree shall be noted on the original copy of the corrected decree and shall be published in the Official Bulletin if the corrected decree was published therein.

TITLE II

ORGANISATION OF THE GUARANTORS' PANEL

Art. 17

Election of the President

1. The Guarantors' Panel shall elect, by a majority of its full and alternate members, the President chosen from among the full members, on a rotating basis for a period of two years; in the event of a tie, the most senior member and, failing that, the oldest member shall be elected.
2. Within fifteen days before the expiry of the President's term of office or after he has ceased to be a member of the Guarantors' Panel for any reason, the most senior member shall convene the Guarantors' Panel to elect a new President.

²¹ **Original text (Decree of the President of the Guarantors' Panel no. 34 of 3 December 2020)**

After Article 15 of Regulation no. 1 of 24 March 2004 - "General Regulation on the organisation and exercise of the functions of the Guarantors' Panel on the Constitutionality of Rules" - the following Articles shall be added:

- *Omissis* -

"Art.15 ter - *Filing of acts and documents via certified electronic delivery service*

1. Documents relating to proceedings before the Guarantors' Panel, drawn up by members of Professional Associations and by the State Lawyers' Office pursuant to Article 3 bis, paragraph 1, letters a) and b) of Decree no. 156 of 8 November 2005, as added by Article 3 of Delegated Decree no. 9/2020, may be filed, provided they are signed with a qualified electronic signature, with the State Institutional Secretariat - Registry of the Guarantors' Panel, respectively via transmission through tNotice service and via the Administration's electronic registration and document management system. For all legal purposes, they shall be treated in the same way as paper documents, the original copy of which is filed with the State Institutional Secretariat.

8. The State Institutional Secretariat shall extract a certified paper copy in accordance with the formalities set out in Article 85 quater of Delegated Decree no. 156/2005, as added by Article 4 of Delegated Decree no. 9/2020, which shall be included in the case file, of which it forms an integral part. The State Institutional Secretariat shall keep the original copy in accordance with the procedures laid down in Regulations no. 8 and no. 9 of 30 December 2013.

2. The date and time of filing of a document with the Registry transmitted via tNotice service shall be those specified in the acknowledgement of receipt; the date and time of filing of a document with the Registry submitted via the Administration's electronic registration and document management system shall be those indicated in the details of the incoming delivery.

3. The provisions governing the use of IT tools in the context of judicial activities, as set out in Decree-Law no. 124 of 27 July 2020, shall apply insofar as they are compatible."



3. If only alternate members are in office, the election shall be provisional, and the President so elected shall automatically be removed from office as soon as a full member has taken the oath; in this case, the provisions of paragraph 2 of this Article shall apply within fifteen days.

Art. 18

Appointment of the alternate President and chairing of meetings in case of absence of both the President and the alternate President

1. The President, as soon as he is elected, shall immediately designate the full member who shall replace him in the event of impediment or absence.
2. If the member referred to in paragraph 1 of this Article is also unable to attend or is absent, the third full member or, failing this, the most senior of the alternate members shall act as President.

Art. 19

President's powers

1. The President shall convene the Guarantors' Panel, set the agenda, direct its works, issue the decrees falling within his competence and perform all the other functions provided for by law and by this Regulation, or that are necessary for the best organisation of the Guarantors' Panel and the regular performance of its functions.

Art. 20

Resignation of members of the Guarantors' Panel

1. Resignation from office shall be effected by submitting a letter of resignation to the President and the Captains Regent; resignation shall take effect immediately.
2. If the resignation letter is sent only to the President, he shall immediately inform the Captains Regent thereof.
3. If the resignation letter is sent only to the Captains Regent, they shall inform the President of the Guarantors' Panel thereof.

Art. 21

Removal from office and suspension of the members of the Guarantors' Panel

1. If any of the grounds for removal from office envisaged by Constitutional Law no. 67/2003 occur, the President of the Guarantors' Panel shall, either *ex officio* or upon notification by anyone, convene all full and alternate members no sooner than ten days thereafter and shall appoint a rapporteur.
2. The member of the Guarantors' Panel whose removal from office is dealt with may submit pleadings and documents.
3. The member whose removal from office is dealt with may also take part in the discussion; once the discussion is over, the Guarantors' Panel, not including the member whose removal from office is dealt with, shall declare, by reasoned act and with the favourable vote of the absolute majority of the members in office, whether the grounds for removal from office exist.



4. The decision shall be immediately communicated by the President to the Great and General Council.

5. For the purpose of implementing Articles 2 and 3 of Constitutional Law no. 67/2003, one or more members of the Guarantors' Panel, if they consider that there are valid reasons for removing from office or temporarily suspending another member of the Guarantors' Panel, shall ask the President, by means of a reasoned act, to convene a special meeting; the President shall convene the full and alternate members no sooner than ten days thereafter and shall appoint a rapporteur; the provisions of paragraphs 2 and 3 of this Article shall apply.

Art. 22

Full and alternate members for jurisdictional matters

1. During its hearings, the Guarantors' Panel shall be composed of the three full members or of the full members present and the alternate member or members designated by the President to replace the absent full members.

2. At the beginning of each hearing, the President shall announce the composition of the Guarantors' Panel for that hearing.

3. The President, if possible, shall also convene a fourth alternate member for the hearing.

4. The members who constituted the Guarantors' Panel at the last hearing shall also participate in the closed session, unless one of the three members is absent and the fourth member present at the last hearing before the closed session is present in his place, and except in the case provided for in paragraph 5 of this Article.

5. In the review action concerning the Captains Regent, only those members who were present at all hearings shall participate in the closed session.

Art. 23

Composition of the Guarantors' Panel for non-jurisdictional matters

1. For discussions and decisions on non-jurisdictional matters provided for by the law, the regulations of the Guarantors' Panel, or deemed appropriate by the President for the best organisation and functioning of the Guarantors' Panel, its President shall convene all the members of the Guarantors' Panel, both full and alternate, and the relevant decisions shall be adopted by majority of the votes in favour.

2. In the event of a tie, the vote of the chairperson of the meeting shall prevail.

Art. 24

Convening of the Guarantors' Panel

1. The President shall convene the Guarantors' Panel within the time-limits established by law and by this Regulation, if envisaged; the notice of the meeting shall indicate the date, time and place of the meeting, the matters to be discussed, the names of the members of the Guarantors' Panel convened, in case not all members are entitled to attend the meeting, and any other necessary or useful element.



2. In cases of urgency, the meeting may be convened *ad horas* and shall be valid if three members are present, provided that the notices referred to in the previous paragraph have been sent to all members of the Guarantors' Panel.

Art. 25

Preliminary investigations into non-jurisdictional matters

1. If a non-jurisdictional matter needs to be investigated, the President shall instruct one or more members of the Guarantors' Panel to carry out a preliminary investigation of the matter and to report to the Guarantors' Panel thereon.

TITLE III

JURISDICTIONAL FUNCTIONS

Chapter I

Review of rules through direct action

Art. 26

Inadmissibility of appeals

1. If one or more of the grounds for inadmissibility provided for in Article 12 of Qualified Law no. 55/2003 exist, the Guarantors' Panel, upon proposal of the President, shall declare the inadmissibility by reasoned order, which shall be immediately notified to the appellants.

Art. 27

Publication of the appeal

1. The President of the Guarantors' Panel, having received the appeal referred to in Article 12 of Qualified Law no. 55/2003 and having established its admissibility, shall order its publication through posting at the Government Building and in the Official Bulletin.

Art. 28

Defendants

1. If an appeal has been lodged in accordance with Article 12 of Qualified Law no. 55/2003, the State body that issued the act appealed against may appear as a defendant by lodging its counter-arguments within ten days following the time-limit of forty-five days provided for in paragraph 2 of Article 12 of Qualified Law no. 55/2003.

Art. 29

Appearance of the appellants and the defendants

1. The appellants shall appear in court by filing their appeal with the Registry, attaching at the end of it the special proxy granted to the lawyers referred to in Article 12.



2. The defendants shall appear in court by filing their arguments with the Registry, together with the special proxy to the lawyers referred to in Article 12 and proof that the appellants have been notified.

Art. 30

Setting of the date of the public hearing

1. After the expiry of the forty-five-day time-limit provided for in paragraph 2 of Article 12 of Qualified Law no. 55/2003 for the filing of appeals and the following ten-day time-limit for the filing of any defence, the President shall immediately set the date for the public hearing; the setting of the hearing shall be notified to the parties joining the proceedings at least twenty days before the date set.

Art. 31

Filing of multiple appeals against the same regulatory act

1. If more than one appeal is filed against the same regulatory act and the issues raised by them are the same, the President shall order them to be discussed at the same hearing in order to be decided by means of a single judgement; if, on the other hand, the issues raised are different, the President, also taking into account the defence, shall assess whether it is appropriate to join the appeals or keep the proceedings separate, without prejudice to the power of the Guarantors' Panel to decide otherwise in closed session.

Art. 32

Discontinuance of a case due to the appellants' waiver of the appeal

1. Up to the final decision, each appellant may file with the Registry a waiver of the appeal; in that case, the Registry shall notify the other parties of such waiver. If all the other parties file their consent within fifteen days of notification, the case shall be declared discontinued by order of the Guarantors' Panel, if convened, or by the President of the Guarantors' Panel by decree.

Art. 33

Referral to the provisions on the review of rules through incidental action

1. In all other respects, Article 36, second paragraph, and Articles 37, 39, 40, 41, 42, 43 and 44 on the review through incidental action, insofar as compatible, shall apply to the review of rules through direct action, together with the general provisions of this Regulation applicable to the matter to be decided.

Chapter II

Review of the rules through incidental action

Art. 34

Transmission of the order of the referring judge



1. The order by which the judge before whom the case is pending initiates *ex officio* the review of constitutional legitimacy, or admits the request of the parties or of the Procuratore del Fisco for the same purpose, shall be transmitted to the Guarantors' Panel, together with the case file and the proof of notifications, as referred to in Article 13, paragraph 6 of Qualified Law no. 55/2003, in both cases.

Art. 35

Inadmissibility of the order

1. The Guarantors' Panel, upon request of the President, shall verify the compliance of the order with the provisions of Article 13 of Qualified Law no. 55/2003; if it finds any defects leading to the inadmissibility of the order, it shall transfer all documents received to the referring judge by means of a reasoned decree, pointing out the defects found.

Art. 36

Publication and registration of the order

1. The President of the Guarantors' Panel, having received the documents, and having established the admissibility of the order according to Article 13 of Qualified Law no. 55/2003, shall issue a decree ordering the transmission of the order of the referring judge to the Captains Regent and its publication through posting at the Government Building and in the Official Bulletin; the Registry shall notify the parties of the decree for their information.
2. The President of the Guarantors' Panel shall also request that the order be numbered and noted by the Registrar in the general register of orders and appeals received by the Guarantors' Panel, with indication in a specific column of the date of receipt and the date of publication through posting at the Government Building and in the Official Bulletin.

Art. 37

Examination of the documents filed and submission of pleadings and arguments by the parties, the Procuratore del Fisco, and the State

1. Within twenty days of the publication referred to in Article 36, the parties, the Procuratore del Fisco and the State may examine the documents filed and submit pleadings and arguments, in seven copies on unstamped paper.
2. The filing of pleadings and arguments shall be equivalent to an entry of appearance.

Art. 38

Setting of the date of the hearing and convening of the judging panel

1. Not earlier than twenty days and not later than thirty days after the publication referred to in Article 36, the President of the Guarantors' Panel, taking into account the status of pending cases, shall set by decree the date of the hearing, notifying the decree



at least ten days before the date set to the parties, the Procuratore del Fisco, and the State, if they have appeared in court, and shall convene the judging panel.

Art. 39

Decision in closed session without a hearing due to the parties' failure to appear in court

1. If none of the parties has appeared in court, the President shall order that the case be discussed directly in closed session, in compliance with the time-limits referred to in Article 38.

Art. 40

Appointment of the judge to carry out preliminary investigations and draw up the report

1. On the same day as that of the decree referred to in Article 38, the President of the Guarantors' Panel shall appoint one of the three full members to carry out preliminary investigations and draw up the report, to whom the Registrar shall immediately transmit the case file.

Art. 41

Additional filing of pleadings before the hearing

1. Additional explanatory pleadings may be filed with the Registry of the Guarantors' Panel (seven paper copies plus one on magnetic media) up to the eighth clear day before the hearing provided for in Article 38.

Art. 42

Transmission of documents to the members of the Guarantors' Panel

1. The Registrar shall transmit to each member of the Guarantors' Panel, at least ten days before the hearing, or immediately in the case provided for in Article 41, a case file containing copies of the document instituting the proceedings and of all subsequent documents relating to the proceedings.

Art. 43

Public hearing

1. At the hearing, the rapporteur shall briefly describe the facts that led to initiating the proceedings before the Guarantors' Panel and shall illustrate the legal issues arising therefrom.

2. After the report, the parties' lawyers shall briefly state the grounds for their conclusions.

3. The President shall direct the discussion and may decide the most important points to be discussed.

4. The President shall be responsible for maintaining order at the hearings also with the assistance of the police forces.



Art. 44

Decision of the Guarantors' Panel

1. At the end of the public hearing, or any public hearings that may be necessary, the President shall convene the Guarantors' Panel in closed session for a collegial assessment of the results of the discussion during the hearing.
2. At the end of the discussion, the Guarantors' Panel shall vote a draft decision and designate one of its members, who may differ from the rapporteur, to draw up the text of the judgement.
3. The President shall convene the Guarantors' Panel no earlier than fifteen days in advance and no later than thirty days after the meeting referred to in the previous paragraphs for the final decision and approval of the entire text of the judgement; to this end, the member who draws up the text of the judgement shall distribute through the Registrar the text he has drawn up to the other members at least five days before the meeting.
4. In any case, the final decision of the judging panel shall be adopted within two months following the last hearing, unless, due to impediment, death or other cause of termination of office of one of the members of the judging panel, it is not possible to replace him in accordance with this Regulation and it is necessary to establish a new panel; if more than two months have elapsed since the last hearing, the Guarantors' Panel shall in any case be obliged to adopt a decision on the case.
5. The judgement shall bear the date of the decision referred to in the preceding paragraph, it shall be signed by all the members of the judging panel, it shall be filed with the Registry the following day and immediately notified to the parties by the Registry, and a certified copy thereof shall be notified to the Captains Regent.
6. Within five days of its filing, the judgement shall be transmitted to the judicial authority before which the proceedings are pending, together with the documents to be returned.
7. The judgement, whether admitting or rejecting the appeal, shall be published through posting at the Government Building and in the Official Bulletin; the provisions declared unconstitutional shall no longer be applied by anyone after six months from publication have elapsed without the Great and General Council having passed any legislative measure in application of Article 16 of the Declaration of the Citizens' Rights and Fundamental Principles of San Marino Legal System.
8. The provisions of this Article shall also apply to the case provided for in Article 39.

Art. 45

Independence of proceedings before the Guarantors' Panel from the proceedings a quo

1. The provisions on the suspension, interruption and extinction of proceedings shall not apply to proceedings before the Guarantors' Panel even in the case in which, for whatever reason, the proceedings pending before the jurisdictional authority instituting the proceedings on constitutional legitimacy have been discontinued.



Chapter III

Judgements on the admissibility of referenda, conflicts between constitutional bodies and institutional liability of the Captains Regent

Art. 46

Judgements on the admissibility of referenda

1. In the judgements on the admissibility of referenda, the provisions of [Law no. 101 of 28 November 1994]²² concerning the functions of the dissolved Judging Panel and the provisions of this Regulation concerning proceedings on constitutional legitimacy through incidental action shall apply insofar as compatible, without prejudice to Article 15 of Qualified Law no. 55/2003.

Art. 47

Conflicts between constitutional bodies

1. The Guarantors' Panel shall apply the provisions of Article 16 of Qualified Law no. 55/2003 to conflicts between constitutional bodies.
2. The waiver of the appeal, if accepted by all parties, shall extinguish the proceedings; such extinction shall be declared by means of a judgement.
3. The bodies concerned may personally appear in court and be defended and represented by the State Lawyers' Office or by professionals.
4. In all other respects, the provisions of this Regulation relating to proceedings on constitutional legitimacy through incidental action shall apply insofar as compatible.

Art. 48

Review action concerning the Captains Regent

1. In the review action concerning the Captains Regent, the Guarantors' Panel shall apply the provisions of Article 17 of Qualified Law no. 55/2003.
2. Anyone subject to such review shall have the right to personally attend the hearings, but shall in any case be defended and represented by a lawyer in accordance with Article 9 of Qualified Law no. 55/2003.
3. In all other respects, the provisions of this Regulation relating to proceedings on constitutional legitimacy through incidental action shall apply insofar as compatible.

Chapter IV

Judgements on magistrates falling within the competence of the Guarantors' Panel

Art. 49

Judgements on the abstention of Judges for Extraordinary Remedies and Judges for Civil Liability Actions of Magistrates

²² Law no. 101 of 28 November 1994 was repealed and replaced by Qualified Law no. 1 of 29 May 2013, which was in turn amended by Qualified Law no. 1 of 17 March 2016 and by Qualified Law no. 2 of 23 August 2016.



1. Pursuant to [Article 5 of Constitutional Law no. 144 of 30 October 2003]²³, the Guarantors' Panel shall decide on abstentions and objections of Judges for Extraordinary Remedies and Judges for Civil Liability Actions of Magistrates.
2. If one of the judges referred to in paragraph 1 is subject to one of the grounds for mandatory abstention set out in Article 10 of Qualified Law no. 145 of 30 October 2003 (Provisions on the Judicial System) he shall declare it and request the Guarantors' Panel to relieve him from hearing and deciding the proceedings in which the incompatibility arises.
3. Once notified to the parties, the application shall be transmitted to the Registry of the Guarantors' Panel, together with the documents of the proceedings. Evidence shall be indicated and provided in the application.
4. The President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel, who shall decide within thirty days.
5. The judgement shall be filed with the Registry of the Guarantors' Panel, which shall notify it to the parties and to the Judge, and transmit it to the Court Registry, together with the case file, which shall be returned.

Art. 50

Judgements on the objections of Judges for Extraordinary Remedies and Judges for Civil Liability Actions of Magistrates

1. The Judges and the Procuratore del Fisco may be objected to by the parties in the cases specified in Article 10 of Qualified Law no. 145 of 30 October 2003 (Provisions on the Judicial System).
2. The application for objection shall be placed on records and shall specify in detail the grounds for objection provided for by law and the supporting evidence.
3. The Judge, upon receipt of the application, shall inform the Head Magistrate thereof²⁴ and shall transmit it immediately to the Guarantors' Panel, together with the case file.
4. The President of the Guarantors' Panel shall immediately assign the appeal to a member of the Guarantors' Panel who, within the following three days, shall assign to the parties and to the judge objected to a time-limit of ten calendar days for the filing of pleadings, arguments and documentary evidence. Pleadings and evidence shall be available to the parties and the judge, who shall be entitled to take copies thereof. If witness evidence is requested, the designated member of the Guarantors' Panel shall fix a hearing for the taking of evidence, which shall take place in accordance with the principle of cross-examination. Upon expiry of the above time-limit and once any evidence is collected, final pleadings shall be filed within the following ten days, after which the case shall be decided, and the relevant decision shall be deposited within ten days.
5. The judgement shall be filed with the Registry of the Guarantors' Panel, which shall notify it to the parties and to the magistrate objected to, and transmit it to the Court Registry, together with the case file, which shall be returned.

²³ Constitutional Law no. 144/2003 was repealed by Constitutional Law no. 1 of 7 December 2021. Reference is made to Article 3 of Constitutional Law no. 1 of 7 December 2021.

²⁴ See the note to Article 14 of Constitutional Law no. 1 of 7 December 2021, in particular Article 1, paragraph 4 of Constitutional Law no. 1 of 21 March 2025.



6. If, after the filing of an application for objection, urgent and unpostponable procedural acts are necessary, or when the parties may suffer from an unjust and irreparable damage pending the objection proceedings, the designated member of the Guarantors' Panel, upon request by a party, may order the transmission of copies of the documents of the proceedings to the Head Magistrate²⁵, who shall appoint, under the rules on the distribution of judicial work and respecting the principle of professional competence, the judge responsible for taking such measures in place of the judge objected to.

7. If, following the deposit of the application for objection, the judge declares his intention to abstain, the provisions on abstention shall apply and the objection proceedings shall be extinguished.

Art. 51

Review actions of magistrates

1. The review actions of magistrates provided for in the first paragraph of Article 7 [and in Article 8 of Constitutional Law no. 144 of 30 October 2003 (Judicial bodies. Establishment, definition and responsibilities)]²⁶ shall be exercised in accordance with the provisions and procedures provided for in these constitutional rules.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS

Art. 52

Transitional jurisdictional functions according to Title VII of Qualified Law no. 55/2003

1. Until the Highest Judges of Appeal and the Judges for Extraordinary Remedies have taken their oaths, the Guarantors' Panel shall exercise the functions referred to in Article 9 of the Declaration of the Citizens' Rights and Fundamental Principles of San Marino Legal System, according to the provisions of Title VII of Qualified Law no. 55/2003.

2. The President of the Guarantors' Panel shall assign the discussion of issues relating to transitional jurisdictional functions on a priority basis to the alternate members, on the basis of their specialisation, unless he deems it appropriate to assign it to a full member.

Art. 53

Integrations to the general Regulation

²⁵ See the note to Article 14 of Constitutional Law no. 1 of 7 December 2021, in particular Article 1, paragraph 4 of Constitutional Law no. 1 of 21 March 2025.

²⁶ **Legislative amendments**

Law no. 138 of 16 September 2011, Article 1:

This Law shall govern the procedures to be established for the Review Actions of Magistrates, set up by Article 8 of Constitutional Law no. 144 of 30 October 2003, as amended by Article 4 of Constitutional Law no. 2 of 16 September 2011.

Constitutional Law no. 144/2003 was repealed by Constitutional Law no. 1 of 7 December 2021. Reference is made to Constitutional Law no. 1 of 7 December 2021.



1. Whenever the Guarantors' Panel, in the performance of its functions and in the organisation of its activities, is called to decide on matters that are not provided for in the law or in this Regulation, it may approve a new provision integrating it, in accordance with the provisions of Qualified Law no. 55/2003, and apply it to the case immediately afterwards, unless this provision entails obligations or duties or responsibilities towards persons outside the Guarantors' Panel. In this case, the new provision shall enter into force only after its legal publication, either on the day indicated by the provision or fifteen days later.

Art. 54

Amendments to and replacement of the general Regulation

1. Amendments to this Regulation, whether by explicit textual amendments or by formally separate acts, shall be approved by the Guarantors' Panel in accordance with the rules of Qualified Law no. 55/2003 for the approval of the Regulation.
2. Whenever, due to the accumulation over time of successive integrating and corrective provisions of this Regulation, it is deemed appropriate to carry out an overall rewording, the President of the Guarantors' Panel shall entrust a member with the task of drafting the new text which, once approved by the Guarantors' Panel, shall definitively replace the previous one.

Art. 55

Internal Regulations

1. Whenever deemed appropriate, the Guarantors' Panel shall approve internal regulations on specific subject matters, following the same rules and procedures as the general regulation.
2. The title of these regulations shall clearly and precisely indicate their subject matter.
3. Also internal regulations shall be legally published.

Art. 56

Publication and entry into force

1. This Regulation shall be published in the Official Bulletin, pursuant to Article 38, paragraph 1 of Qualified Law no. 55/2003, by decree of the President of the Guarantors' Panel, and shall enter into force on the fifteenth day following its publication.