

Republic of San Marino Right to Information Legislation

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I) 5 October 2011 Law on Administrative Procedures and Access to Administrative Documents

REPUBLIC OF SAN MARINO

We, the Captains Regent

the Most Serene Republic of San Marino

Given Article 4 of Constitutional Law No. 185/2005 and Article 6 of Qualified Law No. 186/2005;

We promulgate and send for publication the following ordinary law approved by the Great and General Council at its session of September 29, 2011:

LAW 5 OCTOBER 2011 N.160

LAW ON ADMINISTRATIVE PROCEDURE AND ACCESS TO ADMINISTRATIVE DOCUMENTS

TITLE I

PRINCIPLES & GENERAL PROVISIONS

Art. 1

(Scope of Application)

1. The organs, offices, services, bodies and independent companies of the State are responsible for the realization of the purposes of public interest established by law with respect to rights and taking into account the interests of private individuals according to the programs and directives decided by the Congress of State for the achievement of the objectives set by it. To this end, administrative action, in addition to conforming to the criteria of legality, impartiality and efficiency, is carried out with operational autonomy and management responsibility according to criteria of publicity, effectiveness and economy. In particular, this law implements the principles and provisions contained:

- a) in Article 3, paragraphs 14 and 15 and in Article 14 of the "Declaration of Citizens' Rights and Fundamental Principles of the San Marino legal system";¹
- b) in article 2, comma 1, letter b of the Constitutional Law 15 December 2005 n.183;
- c) in article 16 of the Qualified Law 15 December 2005 n. 184;
- d) in articles 1 and 5 of Law 31 July 2009 n. 105.

2. This Act shall apply:

¹ Translator's note: open quote on starting on the word Declaration has no closed quotation in the original

a) to the Public Administration, understood as the entire complex of organs, offices, services, companies and autonomous bodies of the State, also known as the Administration;

b) to "interested parties", i.e., recipients of administrative measures that affect a specific legal situation of which they are holders.

3. The provisions of this Act shall also apply to the Administration and to public or private persons providing a public service, if and insofar as they are compatible and subject to specific regulations.

4. If the Administration is not required to comply with specific regulations governing individual procedures, it shall carry out its actions in accordance with the provisions of this law. The provisions of this law, however, integrate, if necessary and insofar as they are compatible, the rules governing individual procedures.

5. The provisions of this Act shall not apply:

a) to jurisdictional proceedings;

b) acts of a non-authoritative nature, for which the rules of private law apply;

c) acts resulting from particular procedures regulated by special laws;

d) regulatory acts;

e) acts of political content;

f) acts of general content, planning and programming.

Art. 2

(General Standards)

1. In its relations with citizens, the Administration, in addition to complying with the criteria set forth in Article 1, shall abide by the principles of good faith and transparency, refraining from any arbitrary act and any unnecessary formalism, such as to make the procedure unnecessarily more burdensome.
2. The Administration exercises discretionary power in the cases and within the limits established by law, according to criteria of objectivity, reasonableness and proportionality, as well as in a manner consistent with the purpose for which the discretionary power has been conferred, adopting the most appropriate measures in view of the circumstances. The Administration shall conform its action to the realization of the general interest, refraining from conduct aimed at securing undue advantages for anyone.
3. Where, due to the number of interested parties, personal communications, publication and notification are not possible or are particularly burdensome, the Administration shall provide for the necessary elements to be made known by means of suitable forms of publicity established from time to time by the Administration itself.

Art. 3

(Cooperation and Collaboration between Administrations)

1. The relations between the organs, offices, services, companies and State bodies shall be carried out in accordance with the principles of cooperation and collaboration with respect to their respective competencies, for the purposes of the most effective performance of functions and the most economic and efficient provision of services to citizens.

Art. 4

(Use of Computerized and Telematic Tools)

1. In the exercise of its functions, for a more efficient carrying out of its activity, the Administration shall avail itself, both in internal relations between the various offices, bodies and companies, and with private individuals, of electronic, computerized and telematic techniques and means, within the limits allowed by the laws in force.

Art. 5

(Duty to Act²)

1. The Administration is required to conclude a proceeding with the adoption of an express measure if it is a required act, i.e. its issuance is prescribed by law. Such proceedings may be:
 - a) initiated at the request of the "interested parties", as defined in Article 1, paragraph 2, letter b);
 - b) initiated from the office³.
2. Should a proceeding be extinguished by a revoking or declining of the act of initiation,⁴ by renunciation of the requesting party or by any other cause provided for by law the measure shall consist of a declaration of the extinction with an indication of the fact or act or circumstance which caused it and the applicable regulations.

Art. 6

(Terms⁵)

1. The maximum period within which the measure must be adopted in accordance with article 5, paragraph 1, is set by law or by the provisions governing each procedure.
2. If not previously determined in accordance with paragraph 1, the maximum period within which the measure must be adopted in accordance with article 5, paragraph 1 is ninety days. The

² TN: Or "provide"

³ TN: Or, maybe, "ex officio" if that is a proper usage of the term ex officio in English. The original Italian is "d'ufficio" literally meaning, "from office."

⁴ TN: I believe meaning the act that would initiate provision of the documents in question.

⁵ TN: As in "time limits"

term starts from the date communicated with the initiation of the procedure by the relevant Administration.

3. The term referred to in paragraph 1 or paragraph 2 is suspended in the following cases:

- a) when the processing office, for the purposes of adopting the measure, must acquire, also from another office of the Administration or specific bodies, opinions, technical assessments or information reports;
- b) when the processing office deems it appropriate to acquire certifications relating to facts, situations or qualities not attested to in documents already in its possession or not directly obtainable from other offices of the Administration;
- c) when it is necessary or appropriate to request the interested parties to provide documents, information, details or elements of judgement in order to determine the content of the measure;
- d) when it is necessary to request for the interested parties to supplement the application or the documentation produced in order to rectify formal irregularities that are not such as to render them unacceptable.⁶

4. The term referred to in paragraph 1 or paragraph 2 is suspended until acquisition of the amount requested in the cases referred to in paragraph 3, letters a), b), c) and d), or until expiration of the term assigned to the interested parties in the cases referred to in paragraph 3, letters c) and d). In any case, the suspension may not exceed three months from the date on which the requests pursuant to paragraph 3 were sent. Failure to comply with the deadline for rectifying formal irregularities pursuant to letter d) of paragraph 3 makes the application declined⁷, without prejudice to the right to submit a new one provided that any peremptory deadlines have not expired.

Art. 7

(Silence; Postponement)

- 1. With the exception of cases in which, in proceedings initiated at the request of a party, the silence of the authorities involved beyond the terms referred to in article 6 is considered by express provision of law to be acceptance of the request, article 10, paragraph 2, of Law no. 68 of 28 June 1989 is applied to the omission of the authorities beyond the same terms.

TITLE II

START OF PROCEEDINGS; PARTICIPATION

⁶ TN: a more literal translation would be “determine their inadmissibility” as in, the formal irregularities were deemed small enough that they can fix them and it doesn’t invalidate the whole application. By unacceptable here, the literal meaning is meant, i.e., “unable to be expected.” Not “unacceptable” in a normative, judgmental sense.

⁷ TN: Like n. 7, this would be more literally: “determines the declining of the application”

Art. 8

(Methods of Starting Proceedings)

1. Administrative proceedings may be initiated ex officio⁸ or at the request of one of the subjects "concerned", pursuant to article 1, paragraph 2, letter b).
2. The request initiates an administrative proceeding regulated by the provisions of this law only when the person making the request has a personal right or a legitimate interest in the issuance of a action.

Art. 9

(Start of Proceedings)

1. The Administration shall decide when to initiate an administrative proceeding ex officio on the basis of an appropriate discretionary evaluation.
2. However, the Administration must proceed ex officio whenever it must adopt a measure in execution of a rule of law or regulation.

Art. 10

(Submission of Applications)

1. Any request addressed to the Public Administration must be presented or sent in writing, unless special provisions establish a different form, to the relevant body to issue the measure.
2. Unless the law requires the preparation of a specific report, the petitions shall be noted and a receipt issued directly to the petitioner or by registered mail with return receipt, if the petition is sent by regular mail.
3. No receipt shall be issued:
 - (a) when the action requested is issued immediately;
 - (b) when the application is served by a judicial officer.
4. When the application has been sent in the form and manner referred to in paragraph 5, the issuance of a receipt is not mandatory.
5. Unless the law provides otherwise, the dispatch of the applications referred to in paragraph 1 may be carried out by mail, by registered letter with advice of receipt or by telematic means or by fax, according to the laws in force. Dispatch by telematic means is equivalent to dispatch by post if it is carried out in accordance with the methods and forms referred to in article 3 of Law no. 115 of July 20, 2005, taking account of Decree no. 156 of September 8, 2005 and in any case in accordance with the regulations in force regarding transmission by telematic means.

Art. 11

⁸ TN: "d'ufficio."

(Representation⁹)

1. Interested parties may also present their requests through one or more representatives. In this case the proxy¹⁰ must be issued in writing.
2. The proxy confers on the representative the power to represent the interested party in the handling of the matter for all purposes, unless the law provides otherwise.

Art. 12

(Notification of the Start of Proceedings)

1. With the exception of the cases referred to in article 14, paragraph 3, the Administration which proceeds on its own initiative or on the proposal of another authority is obliged to inform the "interested parties" referred to in article 1, paragraph 2, letter b) and the subjects referred to in article 14, paragraph 2, if identified or easily identifiable.
2. For proceedings at the request of a party, the delivery or sending of the receipt of the request pursuant to article 10 constitutes the notification of the start of proceedings.

Art. 13

(Form and Content of the Notification)

1. The Administration shall give notice of the start of the proceedings by registered letter with return receipt.
2. The communication must indicate:
 - a) The relevant Administration;
 - b) The subject matter of the proceeding to which it is initiated;
 - c) The office and person responsible for the procedure;
 - d) the date from which the deadline for concluding the procedure begins and the remedies available in the event of inactivity on the part of the Administration;
 - e) In the case of proceedings initiated by a party, the date of submission of the relevant request;
 - f) the office where the documents may be viewed.
3. The total or partial omission of the communication referred to in this article may be invoked exclusively by the interested parties.
4. The information referred to in paragraph 2 may be included in the receipt of the application.
5. Where no receipt is issued in accordance with article 10, paragraph 3, except in the case referred to in letter a) of that same paragraph, the authorities must in any case send a

⁹ TN: In the sense of an agent or proxy.

¹⁰ TN: Maybe the most literal translation of “delega” here would not be proxy but “delegacy” but that seemed cumbersome. So proxy here doesn’t mean the person who is a representation, but the formalistic designation itself.

communication containing the indications referred to in this article, paragraph 2, as soon as possible.

Art. 14

(Participation)

1. Unless otherwise provided, in the case of ex officio proceedings, the rules of this title shall apply only when the proceedings involve the adoption of measures affecting a right or a legitimate interest of the addressees.
2. The Administration shall adopt all necessary measures so that in the proceedings the subjects "concerned", pursuant to article 1, paragraph 2, letter b), may participate in the relevant proceedings for the purposes of the most complete realization and protection of their individual rights and legitimate interests. Similar measures shall be adopted in the official proceedings with respect to the subjects referred to in paragraph 1 of this article. The Administration may also admit to participate subjects with interests, including public and widespread¹¹ interests, for which the measure may cause prejudice. In any case, any failure to participate does not prejudice the continuation of the procedure.
3. The provision of subsection 2 shall not apply in the following cases:
 - a) if there are reasons deriving from particular needs to hasten the procedure;
 - b) when the proceedings are connected to investigations for the verification and repression of criminal, administrative, fiscal, customs or currency offences or in any case deriving from the violation of laws or regulations;
 - c) when its application could compromise the effectiveness of controls, inspections and sanctioning activities;
 - d) when its application could jeopardize domestic public order, public safety or international relations;
 - e) in all proceedings in which participation is specifically regulated by particular laws.
4. However, the Administration has the right to take precautionary measures even before informing the interested parties of the start of the procedure.
5. Private individuals who participate in the procedures shall act in good faith and fairness and in any case to criteria such as not to impede or delay the smooth progress and efficiency of administrative action.

Art. 15

(Rights of Those Involved)

1. Individuals eligible for action under Article 14 shall be entitled:
 - a) to know the status of the proceedings;
 - b) to inspect the records of the proceedings and to take copies thereof, except as provided in Article 30;
 - c) to submit comments or proposals in writing or through hearings, as well as to produce documents.

¹¹ TN: literally "diffuse"

2. The Administration is not required to grant hearing requests that are manifestly specious, dilatory, or repetitive.
3. The Administration is obliged to take into consideration the acts referred to in paragraph 1, subparagraph c) by assessing their relevance. Article 18 shall apply.

TITLE III

JURISDICTION AND RESPONSIBILITY FOR THE PROCEEDINGS AND MEASURES

Art. 16

(Jurisdiction, Responsibility, and Identification of Proceedings)

1. Unless otherwise provided for by specific provisions of law governing individual procedures, each Director of the wider public sector¹² is responsible for adopting the administrative measures necessary for the pursuit of the mission and functions of protection and implementation of the public interest in charge of the Organizational Unit of which they are the manager, and is responsible for the preliminary activity of the relevant proceedings and any other related fulfillment.
2. The individual Organizational Units of the Administration and the individual bodies are required to identify the measures and relevant proceedings for which they are responsible. The General Directorate for Public Administration and the General Directors of the agencies prepare and update a special table¹³ indicating these measures and the relative procedures on the basis of the indications provided by the individual organizational units/agencies.
3. The table shall be made public and available to the public in an updated form at each Organisational Unit and Entity and on the relevant websites, as well as on the website of the General Directorate for Public Administration.

Art. 17

(Responsibility for Proceedings)

1. The Managers of the Enlarged Public Sector and the staff in service, who are responsible for the adoption of administrative measures or who contribute in any form, by reason of their office, to the carrying out of the relevant proceedings are personally responsible for relevant acts or omissions related to the smooth running of the proceedings¹⁴ of the affairs falling within their jurisdiction or entrusted to them; they shall take appropriate measures to remove obstacles that prevent, make difficult or delay the full exercise of the rights of the persons concerned or the protection of their legitimate interests, taking all necessary steps to avoid or eliminate any irregularity in the handling of proceedings. They shall refrain from acting with an eye to their own self-interest and from using the prerogatives attached to their office in the particular interest of individuals or groups of individuals, for the purpose of obtaining direct or indirect self-interest; in particular, they shall refrain from any

¹² TN: “Settore Pubblico Allargato” = Widened public sector. I’m not sure if this is a specific organization because it is capitalized in the Italian or if it is just referring to, as I think makes sense in context, the whole public sector.

¹³ TN: Like a spreadsheet

¹⁴ TN: Literally, “treatment”

kind of conduct aimed at obtaining an undue advantage in order to perform or omit acts in accordance with their duties or to perform acts contrary to their office.

2. The Manager in charge, in accordance with paragraph 1 of article 16, assigns, as soon as possible, within the relevant Organizational Unit, responsibility for the preliminary investigation of each individual procedure and, if necessary, for the measure to be adopted. The manager may revoke the assignment at any time.

3. The assignment pursuant to paragraph 2 or its possible revocation is immediately communicated to the interested parties referred to in article 14, paragraph 2.

Art. 18

(Functions of those Responsible Proceedings)

1. Process Manager¹⁵:

- a) assesses the conditions of eligibility, eligibility requirements and the prerequisites relevant for adoption of the measure;
- b) carries out, ex officio or at the request of the interested party, the initiatives necessary to ascertain the facts on which the request is based, arranging for any useful preliminary activities. In ascertaining the facts, they shall take into consideration and examine all the circumstances that may be relevant to the handling of the proceedings, without distinguishing whether they are favorable or unfavorable to the interested parties;
- c) may request the release of statements and the correction of erroneous or incomplete statements and applications;
- d) conducts, when necessary, technical inspections or audits and requires the submission of documents;
- e) Hears parties on facts relevant to the decision, where appropriate given the nature of the measure to be taken;
- f) handles relations with all parties interested in the measure and carries out the communications, publications and notifications required by laws and regulations;
- g) adopts the final measure if they have the jurisdiction to do so, or formulates the proposal for a measure with its own evaluations and transmits the preparatory acts to the relevant authority for adoption.

2. The authority responsible for the adoption of the final measure, if different from the person in charge of the proceedings, should they deviate from the results of the preliminary investigation and from the proposed measure formulated pursuant to letter g) of paragraph 1, must give reasons for this in the final measure. In any case, the same authority may always request additional preliminary investigations, taking into account the time limits within which the measure must be adopted in accordance with article 6.

Art. 19

(Documents in the possession of the Administration)

1. The person in charge of the proceedings acquires ex officio the documents certifying acts, facts, states and personal qualities necessary for the preliminary activity of the proceedings when they are

¹⁵ TN: Literally “the person responsible for the proceedings”

in the possession of the proceeding office, or are held by other offices of the Administration. Managers of public services access the administration's data on the basis of rules established by Delegated Decree. The proceeding office may request from interested parties only those elements necessary for the search of documents.

2. The person in charge of the procedure ascertains ex officio the facts, deeds, states and individual qualities that the proceeding office itself or another office of the Administration is required to certify.
3. The current provisions on administrative documentation apply, insofar as they are compatible.

Art. 20

(Technical Opinions and Evaluations)

1. If an office of the Administration has the power to express an opinion on a mandatory basis, it is obliged to do so within a maximum period of thirty days from the date of receipt of the request, or within a shorter period in cases of urgency.
2. If the opinion is requested on an optional basis, the office of the Administration from which the opinion is requested must immediately inform the requesting office of the deadline within which it will render the opinion.
3. In the event of failure to meet the deadlines referred to in paragraphs 1 and 2, the requesting office may proceed even in the absence of the requested opinion, unless the office that must issue it requests, on a single occasion, an extension of the deadline not exceeding fifteen days for investigative purposes.
4. If an office of the Administration is competent to express a technical evaluation whose acquisition is necessary for the adoption of a measure, it is obliged to issue it within thirty days from the date of receipt of the request.
5. The office required to issue a technical evaluation under subsection 4 may require, for one time only, an extension of the term not exceeding fifteen days for investigative needs. In the event of failure to meet the deadline referred to in paragraph 4, or the extended deadline referred to in this paragraph, the proceeding office may ask for the technical assessment to be carried out by a public or private body, preferably a university-level body, including non-San Marino bodies, which has qualifications and technical skills equivalent to those of the office first referred to it.

Art. 21

(Justifications for Measures)

1. The authority responsible for adopting the final measure shall ensure that the measures adopted are adequately justified in accordance with Article 22.
2. The statement of reasons shall indicate the considerations of law and fact, as well as the administrative or technical evaluations that determined the Administration's decision.
3. In the event that the decision is based on grounds that result from another administrative act referred to in the decision, the communication of the decision must also indicate the act referred to, which must be made available in accordance with the provisions of this Act.

Art. 22

(Duty to State Reasons)

1. "Interested" parties, pursuant to article 1, paragraph 2, letter b), have the right to know in a timely manner the reasons for administrative measures that concern them when these are such as to have a restrictive effect on their legal situation. Those who are allowed to take part in the administrative procedure pursuant to article 14, paragraph 2 may request the reasons for an act from the competent administration.
2. The administrative measures, referred to in this law, must be justified in writing pursuant to Article 21.
3. For binding acts it is sufficient to indicate the rules in application of which the measure is adopted and the assumptions to which these rules relate the necessary adoption of the measure.
4. Exceptionally, a measure that cannot be justified due to urgency is valid, provided that the reasons for the urgency are indicated in the measure itself. In this case, the office that adopted the measure must send the interested party the reasons for the measure within and no later than thirty days of its adoption. The deadline for appealing remains suspended until the date of receipt by the interested party of the reasoning and in any case no later than thirty days.

Art. 23

(Duties of the Administration with regards to measures for the allocation of economic benefits)

1. The granting of subsidies, contributions, subsidies and financial aid and the attribution of economic advantages of any kind are subject to the predetermination by the administrations that are responsible for them of the criteria and methods to be followed.
2. The actual observance of the criteria and methods referred to in paragraph 1 must be result from individual measures granting the economic advantages referred to in this article.

Art. 24

(Formal requirements)

1. The measures are communicated to the "interested parties" referred to in article 1, paragraph 2, letter b), and must contain an indication of the period within which they may be challenged and the authority to which it is possible to appeal.
2. Unless otherwise provided by law, the notice referred to in subsection (1) shall be made by post, by registered letter with acknowledgement of receipt. Communication by telematic means is equivalent to dispatch by post if the interested party consents thereto, if it is carried out in accordance with the methods and forms referred to in article 3 of Law no. 115 of July 20, 2005, taking account of Decree no. 156 of September 8, 2005 and in any case in accordance with the regulations in force regarding transmission by telematic means.

TITLE IV

ACCESS TO ADMINISTRATIVE DOCUMENTS – SANCTIONS

Art. 25

(Access to administrative documents)

1. “Interested” parties, pursuant to article 1, paragraph 2, letter b), can access administrative documents held by the Administration for the purposes of protecting their individual rights and legitimate interests. Those who have been admitted by the Administration to participate in the proceedings, pursuant to article 14, paragraph 2, may also have access to administrative documents. The exercise of access is guaranteed and regulated by the following provisions, without prejudice to special regulations.

2. The Directorate General of the Civil Service monitors the correct application of the provisions on access and verifies, at the request of the Administrations concerned, the legitimacy of the requests, the conformity of the methods of exercise and the application of any limits placed on the exercise of access.

Art. 26

(Scope of access)

1. Administrative documents are all documents or sets of documents that are produced or received by the Administration in the performance of its duties and functions for the protection of the public interest as well as the exercise of public services, regardless of their date, form and material support.

2. The rules set forth in this title shall also apply to administrative records produced or received by the Great and General Council and the Congress of State unless the Council or Congress provides otherwise by its respective regulations.

Art. 27

(Provisions on access)

1. Subject to the exceptions provided for in Article 30, the offices of the Administration that have been contacted are obliged to give access to the documents they hold to those who request them in accordance with Article 25.

2. Consultation of documents pursuant to this law is permitted, provided that they are complete and definitive. Except in the case of a request for access in accordance with article 15, paragraph 1, letter b, consultation of preparatory documents for an administrative measure is not permitted as long as the measure is being prepared.

3. The publication of a document in an official medium of the Administration or on a website maintained by one of the organs or offices of the State shall constitute full compliance with the obligations set forth in this Article.

4. The request for access to documents is presented to the Administration that has formed the document or that holds it permanently. The Administration, as far as possible, shall collaborate with the interested party in identifying the requested document. If the requested office is not in possession of the requested document, or is not authorized to grant access, it shall direct the applicant, as far as possible, to the proper office.

5. If an office of the Administration receives a request for access for a document of which it no longer has custody, because it has handed it over to another office or, in any case, has transferred it to the Archives Administration, the office approached shall forward the request to the office which has possession of the document and shall inform the interested party.

Art. 28

(Exercise of access¹⁶)

1. Access is exercised at the choice of the requester, taking into account the technical possibilities of the Administration, in one or more of the following ways, without prejudice to particular methods of access provided for by special regulations:

- a) by free consultation on the premises of the office that keeps the records, provided its state of preservation permits;
- b) by copy as long as it does not damage the document, or is not prohibited for certain acts and documents by special rules. The cost of the copy shall be borne by the applicant and may not exceed the cost of reproduction. At the request of the interested party, copies shall be certified;
- c) by free electronic mail if the document is available in an electronic format that guarantees the un-modifiability of its content.

2. Consultation of the documents is carried out by the applicant or by a person appointed by the applicant, even with the possible assistance of another person, whose details must be indicated in the request. The person carrying out the consultation may take notes and transcribe all or part of the documents examined, unless this is forbidden by special provisions.

3. A special regulation will establish the fees for the reproduction and copying of the documents referred to in letter b) of paragraph 1, as well as for any authentication.

Art. 29

(Modes for the exercise of access)

1. The authorities concerned shall act within thirty days of receipt of the request, after which Article 10, paragraph 2, of Law no. 68 of June 28, 1989 shall apply.

2. The Administration is not required to process requests for access:

- a) if they are not adequately justified in accordance with Article 25;
- b) if they are not sufficiently precise or are worded in such a way that the requested document cannot be identified;
- c) if they are manifestly unreasonable, abusive, pretextual and quantitatively excessive.

3. The exercise of access shall be limited, deferred or denied in the cases and within the limits established by Article 30.

4. The measure with which the Administration declares that it cannot proceed with the examination of the request for access pursuant to paragraph 2, or with which it limits, postpones or refuses access pursuant to paragraph 3 must be formulated in writing and must state the reasons.

5. The measure referred to in paragraph 4 may be challenged before the administrative bodies with jurisdiction in accordance with common principles.

6. The measure of acceptance of the request for access contains the indication of the office at which access is permitted.

7. Acceptance of a request for access to a document entails the right of access to the other documents referred to in the same document and belonging to the same procedure, subject to the exceptions laid down by law and in Article 30.

Art. 30

¹⁶ TN: more fluidly, but with interpolation: “the exercise of the right to access”

(Limits to the exercise of access)

1. Access is excluded for all acts and documents expressly declared confidential by law.
2. Access shall be limited, deferred, or denied if it would cause prejudice:
 - a) to the exercise of sovereignty and the national defense of the Republic;
 - b) to the foreign policy or international relations of the Republic;
 - c) to State security, public order and public safety, or the safety of persons;
 - d) to the appropriate execution of concrete measures of an authority;
 - e) to the prevention of crimes and investigation activities for the detection and suppression of criminal, administrative, fiscal, customs or currency offences, or in any case deriving from the violation of laws or regulations;
 - f) to the economic and financial policy of the Republic;
 - g) to the performance of all inspection, control and supervisory activities.
3. Access is also limited, deferred, or denied:
 - a) if it may cause the disclosure of information freely provided by a third party to an authority that is bound to secrecy;
 - b) if it may result in the disclosure of professional secrets, or secrets relating to trade or industry;
 - c) if it may affect the privacy of others.
4. Only those directly involved can gain access:
 - a) to documents relating to persons containing data and information of a confidential nature, such as personal data revealing racial or ethnic origin, religious, philosophical or other beliefs, political opinions, membership of parties, associations or organizations of a religious, philosophical or political nature;
 - b) to documents containing personal data that can reveal one's state of health or, in any case, data or information of a healthcare nature;
 - c) to documents containing personal data revealing sex life or confidential family relationships;
 - d) to administrative documents relating to personnel-selection procedures containing information of a psycho-aptitude nature.
5. The right of access to health records shall be enjoyed by both the individuals concerned and, at their option, the physician(s) designated for that purpose.
6. When the request for access concerns a document that contains mentionings¹⁷ or information that are not accessible pursuant to this article, but that it is possible to redact or delete, consultation shall be permitted once the mentioning or information has been redacted or deleted.
7. In any case, the specific provisions of the law in force that limit access to administrative documents remain valid¹⁸.
8. The limitations referred to in the present article cease once the documents have become consultable in accordance with the norms on the consultability of documents stored in the State Archives.

Art. 31

(Duties of the Administration regarding the publication and dissemination of documents)

¹⁷ TN: Or "mentions" but that sounded weirder than the nonword of "mentionings"

¹⁸ TN: As in in force. This section is reiterating that this isn't to repeal any of those sorts of laws.

1. Without prejudice to the rules on the official publication of State acts and measures, the Administration is always required to give suitable publicity to directives, circulaires¹⁹, instructions, and provisions, however named, that contain interpretations or explanatory notes of rules of law or that contain descriptions of administrative procedures or provisions relating to administrative organization.
2. The Administration, on its own initiative, in order to promote the transparency and effectiveness of administrative action as well as the participation of citizens in the care and protection of the public interest, also using electronic and telematic tools, takes the necessary measures for the publication and dissemination of knowledge of administrative documents produced or received by it.
3. In any case, administrative documents that fall under the cases provided for in Article 30 or that contain data, mentionings or information of a personal nature may not be made public before such data, mentions or information have been redacted or before they have been processed in such a way as to make it impossible to identify the persons named therein unless they consent to it

Art. 32

(Limits on the use of data coming from access to administrative documents)

1. Anyone who accesses administrative documents pursuant to Article 25 shall be responsible for the use of the data and information collected.
2. Public data and information collected as a result of access to administrative documents granted pursuant to this Law may be used within the limits of the protection of legally relevant situations pursuant to Article 25.
3. In any event, any use for commercial purposes of data and information collected as a result of access to administrative documents granted pursuant to this law is prohibited.

Art. 33

(Use of public documents²⁰)

1. The data and information contained in documents made public pursuant to Article 31 may be freely used, unless expressly prohibited by special rules, even for purposes other than those of the public interest protection mission or the public service mission for which the documents were produced or received.
2. Any use of the consulted documents in conflict with the law of literary property²¹ or with the rules of copyright is forbidden.

Art. 34

(Sanctions)

1. Unless the act constitutes a more serious crime, violation of the prohibition in Article 32, paragraph 3, shall be punished by imprisonment in the first degree and a fine of days in the second degree.

¹⁹ TN: “circolari” see <https://en.wikipedia.org/wiki/Circulaire>

²⁰ TN: or records

²¹ TN: By this they mean artistic rights etc. like how “all rights reserved” would be used in English.

2. Unless the act constitutes a more serious crime, violation of the prohibition set forth in Article 33, paragraph 2, shall be punished by imprisonment and a fine of days in the second degree.

TITLE V

EFFECTIVENESS OF ADMINISTRATIVE MEASURES

Art. 35

(Effectiveness²² and enforceability of measures)

1. Effective administrative measures shall be carried out immediately, unless otherwise provided for by law or by the measure itself, and without prejudice to the provisions on prior control of legitimacy.
2. The measure limiting the legal sphere of private individuals becomes effective with regard to each addressee with the notification to said addressees carried out in the forms provided for in article 2, paragraph 3. The measure limiting the legal sphere of private individuals not having a punitive²³ character may contain a motivated clause of immediate effectiveness. The measures limiting the legal sphere of private individuals of a precautionary and urgent nature are immediately effective.

Art. 36

(Suspension)

1. The effectiveness or the execution of the administrative measure can be suspended, for motivated reasons and for the time strictly necessary, by the same body that has disseminated it or by another body provided for by law. The suspension temporarily and non-retroactively interrupts the effects of the act until the expiration of the term, if this has been foreseen, or the occurrence of the event to which the duration is conditioned. The period of suspension may be extended or postponed for a single time, as well as reduced for unforeseen needs.

Art. 37

(Execution²⁴)

1. In the cases and manner provided for by law, the Administration may compulsorily impose the fulfillment of obligations on private individuals. The measure imposing obligations shall indicate the term and manner of execution by the obligated party. Should the interested party fail to comply, the Administration, following a warning, may provide for forced execution in the cases and manner provided for by law.
2. For the purposes of the enforcement of obligations involving sums of money, the provisions for the compulsory enforcement of government claims apply.

Art. 38

²² TN: or efficacy

²³ TN: “sanctioning”

²⁴ TN: Not capital punishment, but as in the “executive” branch of government.

(Withdrawal of measure prior to inspection)

1. The Administration that has adopted the measure may withdraw the measure sent to the controlling body pending the decision on validity, by means of a written and motivated²⁵ request sent to the controlling body itself.
2. The withdrawn measure is not enforceable.

TITLE VI

INVALIDITY AND IRREGULARITY OF THE ADMINISTRATIVE MEASURE

Art. 39

(Corrections for clerical error)

1. The relevant Administration provides for the correction of material errors clearly recognizable as having happened in the drafting of the act or measure, by means of *errata corrige*,²⁶ that is, by drafting a subsequent document to correct the errors of the first.

Art. 40

(Rectification or reform of a measure)

1. In the event of a substantial error or material error that does not fall within the hypothesis of an error that can be remedied with an *errata corrige*, the relevant Administration rectifies the act or measure with a new act or measure that amends, integrates or substitutes part of the previous one.

Art. 41

(Validation of a measure)

1. The validation is a declaration of will of the authority that issued the act or, if this is vitiated by incompetence,²⁷ of the authority with the power to issue it, aimed at recognizing the defects of the act and eliminate them.
2. The Administration may intervene with amnesty, in the cases provided for by law, to validate measures adopted in the absence of the necessary conditions.

Art. 42

(Voidness of a measure)

1. An administrative measure is null and void if it lacks essential elements, is vitiated by an absolute defect of attribution, has been adopted in violation or circumvention of a judgement, as well as in the other cases expressly provided for by law.
2. Appeals relating to the nullity of administrative measures are attributed to the exclusive jurisdiction of the Administrative Judge.

²⁵ TN: also, maybe, “justified” in the sense of you need to give a reason

²⁶ TN: A technical term, roughly equivalent to “erratum.”

²⁷ TN: Not a value judgment, but impotence, like the inability to take an action maybe, for example, for jurisdictional reasons.

Art. 43*(Annulment of a measure)*

1. An administrative measure adopted in violation of the law or vitiated by excess of power or incompetence is voidable.
2. A measure adopted in breach of procedural regulations or regulations governing the form of deeds may not be annulled if, due to the binding nature of the measure, it is clear that its operative content could not have been different from that which was actually adopted. In any event, an administrative measure may not be annulled due to failure to notify the initiation of proceedings if the Administration can demonstrate that the content of the measure could not have been different from that which was actually adopted.
3. The provisions relating to appeals before the Administrative Judge set out in Law no. 68 of 28 June 1989 and to appeals in opposition set out in article 12 of the same law apply.

Art. 44*(Automatic Cancellation)*

1. An administrative measure that is illegitimate insofar as it is vitiated by violation of the law, excess of power or lack of competence, may be annulled ex officio by the body that issued it, or by another body per law, within a reasonable period and taking into account the interests of the addressees, if the reasons of public interest exist.
2. This is without prejudice to the possibility of validating the annulled measure, where there are reasons of public interest and within a reasonable period of time.

Art. 45*(Revocation of the measure)*

1. For reasons of public interest or in the event of a change in the factual situation or a new assessment of the original public interest, the administrative measure with lasting effect may be revoked by the body that issued it or by another body provided for by law. The revocation determines the inability of the revoked measure to have further effect.
2. The provisions relating to appeals before the Administrative Judge set out in Law no. 68 of 28 June 1989 and to appeals in opposition set out in article 12 of the same law apply.

TITLE VII**TRANSITIONAL AND FINAL RULES****Art. 46***(Transitional Rules)*

1. The offices concerned shall carry out a review of the measures for which they are responsible and prepare whatever is necessary to clarify their respective procedures and to fully implement this law within a maximum period of one hundred and eighty days from its entry into force.
2. Proceedings already underway at the date of application as per the preceding paragraph are governed by the regulations in force at the date of their commencement.
3. Until the establishment of the bodies of the General Directorate of Civil Service, directives, coordination and technical support are delegated to bodies and offices of the Administration identified by resolution of the Congress of State.
4. Taxes, duties and fees as well as official fees provided for measures and proceedings are reviewed by delegated decree that will take into account the recognition referred to in the first paragraph and, if necessary, replaced with fees commensurate with the type of proceedings to which they refer.

Art. 47

(Repeals)

1. All regulations in conflict with this Act are hereby repealed.

Art. 48

(Coming into force)

1. This Act shall enter into force on the fifteenth day following that of its legal publication.

II) Decree–Law No. 89, 25 July 2016

REPUBLIC OF SAN MARINO

DECREE – Law No. 89, 25 July 2016

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

Given the Decree - Law No. 79 of June 29, 2016 - Provisions on the protection of witnesses of corruption offenses, fight against corruption and transparency of the Administration - promulgated:

Given the requirements of necessity and urgency pursuant to article 2, paragraph 2, letter b) of Constitutional Law no. 183 of December 15, 2005 and article 12 of Qualified Law no. 15 December 2005 no. 184 and precisely:

– the need to dictate provisions on the protection of witnesses to crimes under Title IV, Chapter IV of the Penal Code and further implementation of transparency in the Administration in relation to access to administrative acts;

– the urgency of making these changes, with a view to the forthcoming 72nd plenary meeting of the GRECO in which the status of implementation of the Compliance Report Recommendations on San Marino following the first and second rounds of joint assessment will be reviewed;

Having regard to Resolution No. 9 of the State Congress adopted at its meeting on June 21, 2016;

Given the amendment made to the aforementioned decree upon ratification thereof by the Great and General Council at its meeting of July 18, 2016;

Given the resolution of the Great and General Council No. 26 of July 18, 2016; Having regard to Articles 8 and 9, paragraph 5, of Qualified Law No. 186/2005;

We promulgate and send for publication the final text of the Decree - Law 29 June 2016

No. 79 as amended following the amendments approved by the Great and General Council at the time of its ratification:

PROVISIONS ON THE PROTECTION OF WITNESSES OF CORRUPTION OFFENCES, FIGHT AGAINST CORRUPTION AND TRANSPARENCY OF THE ADMINISTRATION

Art. 1

(Protection of witnesses to crimes under Title IV, Chapter IV of the Penal Code)

1. In order to keep confidential the identity of the witnesses and the content of the testimonies in criminal proceedings relating to the offences referred to in Title IV, Chapter IV of the Penal Code, the investigating judge shall declare by means of a motivated decree the state of “special secrecy” referred to in Article 5 of Law no. 93 of 17 June 2008 with reference to the acts of investigation involving such subjects; the aforesaid acts and decree shall be kept in a separate file during the entire investigative phase.
2. The regime of special secrecy shall cease with the publication of the trial and the Judicial Authority shall order, with the decree for the setting of the trial hearing, the joining of the documents referred to in paragraph 1 to the trial file, unless the same Authority deems it unnecessary, taking into account the further results of the investigation, use the testimony and reveal the identity of the witness for the purposes of ascertaining the crimes for which they are being prosecuted.
3. In order to protect the confidentiality of the identity of the witness who is to be examined, the trial takes place *in camera*. The judge of the trial has the power to order, when they deem it necessary, measures to guarantee the protection, the safeguard of the safety and security of the witness and/or of

their close relatives; in particular, it shall be forbidden to spread the personal details and the image of the witness as well as news concerning them.

4. A witness who, on the basis of reasonable suspicion and in good faith, has provided statements in criminal proceedings relating to the offences referred to in Title IV, Chapter IV of the Criminal Code shall not be subjected to any prejudice, retaliatory or discriminatory measure, whether direct or indirect, affecting working conditions for reasons connected, directly or indirectly, with the testimony given. In such cases, when there is evidence of the retaliatory or discriminatory nature of the measures taken, the burden of proof of the existence of legitimate reasons for such measures shall lie with the employer. Any sanctions or disciplinary measures adopted by the employer in violation of the provisions of the first sentence of this paragraph shall be null and void. The measures referred to in this paragraph are also recognized to protect the next of kin of the witness, if employed by the same employer.

5. The protections referred to in paragraph 4 shall not be guaranteed in cases where it is established, even with a judgment of first instance, the criminal responsibility of the witness for the crimes of slander or false testimony or defamation or its civil liability, and for the same reasons, in cases of fraud or gross negligence.

6. The provision as per article 8, paragraph 5 of Law no. 93/2008 shall apply to procedural acts and documents collected during the course of the trial as well as the parts of sentences and archiving orders for which the special secrecy regime as per paragraph 1 is envisaged.

Art. 2

(Amendments to article 1 of Law no. 160/2011)

1. The introductory part of article 1, paragraph 2 of Law no. 160 of October 5, 2011 is to be replaced by the following: "Except as provided under Title IV, this law applies:".

Art. 3

(Amendments to article 25 of Law no. 160/2011)

1. Article 25, paragraph 1 of Law no. 160/2011 shall be replaced as follows:

"Citizens of San Marino, foreign citizens residing or staying in the Republic and legal persons, associations, foundations and bodies having their registered office in the Republic may have access to the administrative documents in the possession of the Administration also independently from the purpose of protecting qualified and differentiated legal positions and without the need to justify the request for access. The exercise of access is guaranteed and regulated by the following provisions and by the implementing regulations of this law. They are, however, subject to the special rules."

2. The following paragraph is added to Article 25 of Law No. 160/2011:

"3. The Director General of the Civil Service, the organizational units, the Departments, the Autonomous State Agencies and the wider Public Sector Bodies to which the request for access is addressed are obliged, should counterinterested parties²⁸ be identified or easily identifiable pursuant to article 30, to notify them by sending a copy of the request by registered letter with advice of receipt or through secure computer channels, in accordance with the provisions of the relevant regulations. Within thirty days of receipt of the communication, the interested parties may present a reasoned objection, also with reference to the need to protect personal data; once this term has elapsed the Administration, having ascertained

²⁸ TN: "soggetti controinteressati" = "objectors" or "other parties"

receipt of the communication, shall act on the request within the term provided for in article 29, paragraph 1".

Art. 4

(Amendments to article 27 of Law no. 160/2011)

1. Article 27, paragraph 2 of Law no. 160/2011 is replaced as follows:

"2. Consultation of preparatory documents of an administrative measure in the process of being prepared is permitted in accordance with the provisions of Articles 14(2) and 15(1)(b)."

Art. 5

(Amendments to article 29 of Law no. 160/2011)

1. In article 29, paragraph 1 of Law no. 160/2011 the expression "from the date of receipt of the request" is replaced by "from the date of receipt of the request or from the expiry of the term granted to one or more interested parties to submit any opposition pursuant to article 25, paragraph 3".

2. Article 29, paragraph 2, letter a) of Law no. 160/2011 is replaced as follows:

"a) if it accepts the opposition presented by the parties concerned pursuant to article 25, paragraph 3".

Art. 6

(Reports)

1. The reports referred to in Article 3, paragraph 2 of the Decree - Law No. 90 of 16 June 2014 may also be made to the Financial Intelligence Agency (FIA) which shall, if it deems it proper, inform the judicial or police authorities.

Art. 7

(Repeals)

1. Articles 26, paragraph 2 and 30, paragraph 2, letter d) of Law no. 160/2011 are repealed. The expression "pursuant to article 25" in article 32 (2) of Law no. 160/2011 has also been deleted.

Given from Our Residence²⁹ on the 25th day of July, 2016/1715 d.F.R.

CAPTAINS REGENT

Gian Nicola Berti – Massimo Andrea Ugolini

²⁹ TN: Or "abode" or "residency," but this is clearly formalistic, ceremonial language for a closing either way.

THE SECRETARY OF
STATE FOR DOMESTIC
AFFAIRS

Gian Carlo Venturini

III) Regulation of 2 December 2015, No. 16

REPUBLIC OF SAN MARINO

We, the Captains Regent

the Most Serene Republic of San Marino

REGULATION 2 DECEMBER 2015 No. 16

Given Resolution No. 18 of the Congress adopted on October 21, 2015;

Given Article 5, paragraph 5, of Constitutional Law no. 185/2005 and Article 13 of Qualified Law no. 186/2005;

We promulgate and send for publication the following regulations:

OBLIGATIONS OF PUBLICITY, TRANSPARENCY, AND DISSEMINATION OF INFORMATION BY THE ADMINISTRATION

Art. 1

(Purpose and Scope of Application)

1. This regulation lays down rules for the application and implementation of the provisions contained in Articles 31, 33 and 34, paragraph 2 of the Law of 5 October 2011 n.160 "Law on administrative proceedings and access to administrative documents" on the transparency of the Administration's actions and the publication and dissemination of information and administrative documents and identifies the procedures for their implementation.
2. In order to encourage widespread forms of control over the pursuit of institutional functions and the use of public resources as well as to prevent corruption and promote the efficiency and effectiveness of administrative action, transparency is understood as total accessibility to the information referred to in the following articles.
3. The obligations relating to the publication and dissemination of documents provided for in the following articles apply to the Administration, as defined in Article 1, paragraph 2, letter a) of Law n.160/2011 and Article 3, paragraph 1, letter a) of Law 5 December 2011 n.188.
4. The provisions of these regulations shall also apply to public or private persons providing a public service, insofar as they are compatible and subject to special rules.

Art. 2

(Transparency of the Organization and Activity of the Administration)

1. The following information about the organization and activities of the Administration shall be fully accessible:

a) regulatory and general administrative acts. Data relating to:

- 1) directives, circolaires, instructions and, in particular, documents that establish the criteria and procedures to be followed by the Administration in granting subsidies, contributions, grants and financial aid and in allocating economic benefits of any kind to private individuals and bodies;
- 2) provisions, however named, that contain interpretations or explanatory notes of rules of law;
- 3) codes of conduct;
- 4) schedules indicating the effective dates of the new administrative obligations introduced;
- 5) burdens introduced or eliminated by the aforesaid acts, weighing on citizens, residents and businesses, in relation to the collection, processing, transmission, storage and production of information and documents for the Administration;
- 6) collective bargaining and agreements with trade unions;

b) provisions on the organization of the Administration. Data related to:

1) Collegial bodies of the State that exercise functions of administration and management, indicating:

1.1) details of the deeds of appointment and/or the reference regulatory source for the composition of the body;

1.2) duration of the assignment and any related remuneration;

1.3) skills;

1.4) resources available;

2) holders of managerial positions. Data relating to:

2.1) details of the deed of assignment;

2.2) CV;

2.3) economic treatment;

3) holders of collaborative or consultancy positions and of training, technical-professional apprenticeships and internships. Data relating to:

3.1) details of the act of conferment;

3.2) curriculum vitae, for holders of collaboration or consultancy positions;

3.3) remuneration, however denominated, with specific evidence of any variable components;

3.4) the reason, purpose, and duration of the assignment or training relationship, internship or practicum;

4) structure and organizational model of the broader Public Sector³⁰, as defined by article 3, paragraph 1, letter b) of Law no. 188/2011 and of the collegiate bodies referred to in this letter b), number 1) with reference to: 4.1) with regard to the Public Administration, as defined by article 3, paragraph 1, letter c) of Law no. 188/2011, the structure of the Departments, Organizational Units (OU) and bodies of the Civil Service with an indication of their respective missions and functions, and the resources available;

4.2) with regard to the Entities, as defined by article 3, paragraph 1, letter d) of Law no. 188/2011, to the internal organizational structures with an indication of the respective functions and available resources;

³⁰ TN: “Settore Pubblico Allargato: “The Broader Public Sector is made up of the Public Administration and the Extra-Public Administration (defined both at the central and local/sub-regional level), which includes entities under public control (Public Enterprises), engaged in the production of marketable services.”
https://www.agenziacoazione.gov.it/wp-content/uploads/2020/11/ParteI_cap2.pdf

4.3) with regard to the collegial bodies referred to in this letter b), number 1), to their respective functions and available resources;

4.4) Normative references that regulate the institution, organization and activity of the organs, offices, services, companies and autonomous public bodies of the State with related links to laws, decrees and regulations of the Congress of State published in the database of the Great and General Council;

5) illustration in simplified form, for the purposes of full accessibility and comprehensibility of the data, of the organization of the Administration with particular reference to the functional relationships between organs, offices, services, companies and autonomous public bodies of the State, by means of the organization chart or similar graphic representations;

6) list of telephone numbers as well as institutional mailboxes that citizens can contact for any request concerning institutional tasks;

7) data relating to requirements and to permanent staff as well as staff on fixed-term contracts actually in service, with an indication of the distribution between the various positions and OU/Department/sector of companies and autonomous public bodies of the State and the related costs;

8) a list of the companies and private law bodies in which the Chamber of Deputies, companies and autonomous public bodies of the State directly hold total or majority shareholdings, indicating:

8.1) level of participation;

8.2) total charges for any reason whatsoever for the year on the State budget and/or the State's autonomous public agencies and bodies;

8.3) the number of representatives of the Administration in the governing bodies, the positions of director and manager conferred by the company or private law body in which the Company has an interest and the total remuneration due to each of them;

8.4) budget results for the past three fiscal years;

8.5) functions assigned and activities performed in favor of the Administration or public service activities entrusted;

8.6) one or more graphical representations highlighting the relations between the Administration and the companies or bodies in which it has an interest;

c) provisions regarding the Administration's activities. Data related to:

1) list of activities/assignments declared compatible with the public employment relationship in accordance with article 16, paragraph 3 of Law 31 July 2009 n.108 or article 30, paragraph 3 of Law 22 December 1972 n.41 as well as the performance of professional activities for health personnel of the Institute for Social Security in accordance with articles 3, 14 and 15 of Decree 16 December 1991 n.153 and related implementing regulations;

2) provisions, however named, containing the description of administrative procedures and related measures, to be published in a timely manner and in accordance with the provisions of Article 16, paragraphs 2 and 3 of Law n.160/2011;

3) aggregate data relating to administrative activity organized by sector of activity, by competence of bodies and offices, by type of procedure and data concerning compliance with the deadlines for the issuance of measures referred to in Article 6 of Law n.160/2011;

- 4) list of the types, obligations and fulfilments subject to the control activities to which companies are subject according to their size and sector of activity, indicating for each the criteria and the respective methods of execution;
- 5) list of services provided to users and average times for providing them, with reference to the previous financial year.

Art. 3

(Transparency on acts concerning the use of public resources)

1. The following information relating to acts and measures of the Administration and concerning the use of public resources shall be fully accessible:
 - a) documents and addenda to the economic program, the budgets and related changes and the financial statements, as well as revenue and expenditure data published in summary form, aggregated and simplified, also with the use of graphical representations in order to ensure full accessibility and comprehensibility;
 - b) identifying information about properties owned as well as the rents paid or received;
 - c) decisions, together with the acts to which they refer, made by the bodies responsible for checking validity before and after enactment³¹, accounting and administrative, of acts and measures relating to expenditure and personnel management;
 - d) indicators of average payment schedules relating to the purchase of goods, services and supplies, works³² and labor contracts, the conferment of professional, collaborative and consultancy contracts.

Art. 4

(Transparency on acts and measures in special sectors)

1. The following information regarding the following areas shall be accessible:
 - a) administrative acts and measures relating to the public procurement of works, labor, services and supplies, in accordance with the relevant special regulations;
 - b) planning relating to the public works sector, indicating for each work the description of the main characteristics of the work, the location, references to urban planning forecasts and the presumed amount of expenditure;
 - c) acts and measures relating to the field of general and detailed planning of the territory, in accordance with the provisions of Articles 3 and 4 respectively of the Law of 19 July 1995 n.87 and by Chapter II of Law 3 October 2007 n.107;
 - d) information relating to the environmental sector, in accordance with the provisions of Chapter II of Title VIII of Delegated Decree no. 44 of 27 April 2012 "Environmental Code";
 - e) information related to health, social and socio-educational services. They are published and updated annually:
 - 1) Health Plan, Social Health Plan, and Social Education Plan;

³¹ TN: “dagli organi di controllo di legittimità preventiva e successiva” is literally, “of the organs in control of prior and successive legitimacy.” What I gave, I believe, is a fair representation in idiomatic English.

³² TN: like “pubic works”

- 2) further planning documents referred to in articles 4 and 5 of Law no. 165 of November 30, 2004;
- 3) list of public and private health, social-health and socio-educational facilities authorized and accredited pursuant to Laws n.68 and n.69 of May 25, 2004 and subsequent amendments;
- 4) Waiting times for each of the types of services provided by the health service and other indicators provided by the Health Plan.

Art. 5

(Administrative Proceedings and Measures)

1. The summary table referred to in article 16, paragraphs 2 and 3 of Law no. 160/2011 shall provide the following information for each type of procedure:
 - a) a brief description of the process, including all relevant regulatory references;
 - b) UO/Department/internal articulation of companies and autonomous public bodies of the State responsible for the investigation;
 - c) name of the person in charge of the procedure, together with telephone numbers and institutional e-mail address, as well as, where different, the office responsible for the adoption of the final measure, with indication of the name of the person in charge of the office, together with the respective telephone numbers and institutional e-mail address;
 - d) for the procedures at the request of a party, the deeds and documents to be attached to the request and the necessary forms, including facsimiles for the declarations in lieu, as well as the offices to which to apply for information, timetables and methods of access with an indication of the addresses, telephone numbers and institutional electronic mailboxes, to which to submit requests;
 - e) ways in which the interested parties can obtain information regarding the proceedings in progress that concern them;
 - f) the term fixed in the regulations governing the procedure for conclusion with the adoption of an express measure and any other relevant procedural term;
 - g) procedures for which the measure can be replaced by a declaration by the interested party or which can be concluded with the silent consent of the Administration;
 - h) instruments of protection, administrative and judicial, recognized by the law in favor of the interested party, during the procedure and against the final measure or in cases of adoption of the measure after the deadline for its conclusion and ways to activate them;
 - i) connection for access to the online service, if it is already available on the network, or the expected timeframe for its activation;
 - l) payment mechanisms with indication of the identification codes of the payment to be compulsorily indicated and further necessary information;
 - m) name of the person to whom, in case of inactivity, the substitutive power is attributed, as well as the ways for effectuating such power, with indication of telephone numbers and institutional e-mail addresses;
 - n) results of the surveys of the degree of citizen satisfaction with the quality of the services provided, as provided for by article 26, paragraph 1, letter c) of Law no. 188/2011;

o) procedures for carrying out checks by the Administration on the statements of support provided for by Law no. 159 of October 5, 2011.

2. The Administration may not request the use of forms and forms that have not been published; in the event of non-publication, the relevant procedures may be initiated even in the absence of said forms or forms. The Administration may not reject the request on the grounds that the forms or forms have not been used, or that such documents have not been produced, and must invite the applicant to complete the documentation within a reasonable period of time.

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

a) authorization or concession;

b) announcements of competitions and selections pursuant to Law no. 107 of July 31, 2009 and Delegated Decree no. 106 of August 2, 2012, and final rankings and acts relating to career advancement. The Administration publishes and keeps constantly updated the list of calls for tenders and selections in progress as well as that of calls for tenders and selections carried out during the last three years, accompanied by indication, for each of them, of the number of employees hired;

c) deeds for the granting of subsidies, contributions, grants and financial aid and for the attribution of economic benefits of any kind to public and private persons and bodies. The information relating to these acts is organized annually in a single list for each UO/Department/internal division of companies and autonomous public bodies of the State and is related to: 1) amount of the economic benefit paid;

2) rule or title underlying the award;

3) competent office and/or body and official or manager responsible for the relevant procedure and administrative measure;

4) The method used to identify the beneficiary.

4. For each of the acts and measures referred to in paragraph 3, the content, purpose, any planned expenditure and details of the main documents contained in the file relating to the procedure. Publication takes place in the form of a summary sheet, produced at the time of formation of the document containing the act.

5. The publication of the acts and documents referred to in paragraph 3 is carried out without prejudice to the limits referred to in Article 30 of Law n.160/2011. The data, mentions or information of a nominative or personal nature referred to in article 3, first paragraph, letter a) of Law no. 70 of 23 May 1995, which may be contained in the documents, are redacted or processed in such a way as to make it impossible to identify the persons named therein, unless they consent.

Art. 6

(Publication and Dissemination of further information)

The organs, offices, services, companies and autonomous public bodies of the State that make up the Administration have the right to arrange for the publication on their institutional website of data, information and documents that they are not obliged to publish under the above articles or

on the basis of specific provisions of law or regulation, subject to the limits and conditions expressly provided by the regulations on the processing of personal data, proceeding to the anonymization of personal data that may be present in accordance with the provisions of Article 31, paragraph 3 of Law n.160/2011.

Art. 7

(Manager of Transparency³³)

1. Officials with managerial qualifications are, as a rule and unless delegated to employees with qualifications/PDR of head of operational units, the persons responsible for transparency in relation to the obligations of publication and dissemination existing in the offices, services, internal organizational units of companies and autonomous public bodies of the State directed by themselves.
2. Officials with managerial status are also responsible for transparency in relation to the obligations imposed on the State bodies referred to in Article 2, paragraph 1, letter b), number 1) which relate to the administrative sector for which they are responsible.

Art. 8

(Methods of Effectuating Publication)

1. All documents, information and data subject to publication under the above articles are public and anyone has the right to know³⁴ and use them freely under Article 33 of Law n.160/2011, with the obligation to cite the source and respect integrity.
2. For the purposes of Article 31 of Law no. 160/2011 and without prejudice to the rules on publication in the Official Gazette, the publication shall be made in open format on the institutional websites of the Administration where anyone has the right to access the sites directly and immediately, without authentication and identification.
3. An open format is a data format that is publicly available, comprehensively documented, and neutral with respect to the technological tools needed to use the data.
4. Open data is defined as data with the following characteristics:
 - a) are available under the terms of a license that permits their use by anyone, including for commercial purposes, in unbundled format;
 - b) are accessible through information and communication technologies, including public and private telematic networks, in open formats in accordance with letter a), are suitable for automatic use by computer programs and are provided with the relevant metadata;
 - c) are made available free of charge through information and communication technologies, including public and private telematic networks, or are made available at the marginal costs³⁵ incurred for their reproduction and dissemination. The Technical Commission for Technological

³³ TN: Literally, “the one responsible for transparency”

³⁴ TN: Maybe more idiomatically, “learn of”

³⁵ TN: I believe in general, this is simply referred to as “at cost” in English economic language rather than “at marginal cost.” But the meaning is the same.

Innovation has the power to establish, by its own resolution, the exceptional cases, identified according to objective, transparent and verifiable criteria, in which they are made available at rates higher than marginal costs.

5. The publication may be carried out, by order of the General Directorate for Public Administration (DGFP), jointly or alternatively to the procedure set out in paragraph 2, also by posting on the notice boards of offices, services, companies and autonomous public bodies of the Wider Public Sector.

6. This is without prejudice to other forms of publicity and dissemination of administrative documents provided for by special regulations which are understood to be in addition to the procedures set out in paragraphs 1 and 2.

Art. 9

(Civic Access)

1. The obligation of the Administration to publish documents, information or data as set out in the above articles entails the right of anyone to request those things in cases where their publication has been omitted through the exercise of civic access in accordance with the provisions of this article.

2. The request for civic access is not subject to any limitation as to the subjective legitimacy of the applicant, does not have to be justified, is free of charge and must be submitted to the person identified as the Manager of Transparency who reports the request to the DGFP for the purposes of the provisions of Article 11.

3. The organ, office, service, company and autonomous public bodies of the State, within thirty days, shall proceed to the publication on the site of the document, information or data requested and shall inform the applicant of the publication, giving the hyperlink to what has been requested; if the document, information or data requested are already published in accordance with current regulations, the applicant shall be given the hyperlink.

4. In cases of delay or failure to respond, the applicant may proceed in accordance with article 10, second paragraph of Law no. 68 of June 28, 1989 or appeal to the DGFP which, having verified the existence of the obligation to publish, shall proceed in accordance with paragraph 3 within thirty days.

5. The DGFP is also responsible for assessing the request for civic access in cases where it has not been possible for the applicant to identify the person responsible for transparency; in this case, the DGFP shall take action pursuant to paragraph 3, within thirty days.

6. The protection of the right of civic access is governed by the provisions of Law n.68/1989 and against the measure that limits, postpones or refuses civic access to documents in relation to which the Administration assumes the limits referred to in Article 30 of Law n.160/2011, you may appeal to the administrative court.

Art. 10

(Quality of the information and the duration of the obligation of publication)

1. The Administration shall guarantee the quality of the information contained in the institutional websites in compliance with the publication obligations established by the preceding articles, ensuring its integrity, constant updating, completeness, timeliness, ease of consultation, comprehensibility, homogeneity, ease of access, conformity with the original documents in the possession of the Administration itself, the indication of their origin as well as their usability in accordance with the provisions of Article 33 of Law n.160/2011.
2. The need to ensure adequate quality of the information disseminated cannot, in any case, constitute a reason for not publishing or delaying the publication of data³⁶, information and documents.
3. The data, information and documents subject to publication pursuant to the above articles shall be published for a period of five years, starting from January 1 of the year following that from which the obligation to publish begins, and in any case until the published acts produce their effects.
4. Also for the purposes of the provisions of Article 21, paragraph 3 of Law No. 141 of September 5, 2014, the data referred to in Article 2, paragraph 1, letter b), numbers 2) and 3) shall be published for the two years following the termination of employment.

Art. 11

(Controls, Supervision, and Sanctions)

1. The DGFP shall control, through the Internal and External Communication Service, the exact fulfilment of the obligations of publication provided for by article 31 of Law n.160/2011, by these regulations and by special laws as well as the compliance with the acts of address referred to in article 12, paragraphs 1 and 2 below by bodies, offices, services, companies and autonomous public bodies of the State; to this end, it exercises inspection powers through requests for news, information and documents and orders for the adoption of acts or measures or the removal of conduct or acts contrary to the rules on transparency.
2. Non-fulfilment or partial fulfilment of the obligations of publication as well as non-compliance with the acts of guidance referred to in article 12 below, paragraphs 1 and 2, constitutes, in relation to the seriousness of the infringement, a violation of the duties of the manager or, in cases where the function of Head of Transparency has been delegated, of the person responsible for the publication and dissemination of information, sanctioned in accordance with the regulations in force. This infraction also constitutes an element of evaluation of the performance of the manager or the person responsible and a possible cause of liability for damage to the image of the Administration.
3. In the exercise of the powers referred to in paragraph 1 and in Article 12, paragraphs 1 and 2 below, the DGFP shall exercise vertical line functions in relation to the Directors and Managers of the autonomous public companies and bodies of the State.

³⁶ TN: (not publishing) or (delaying the publication of...)

4. The manager or person in charge shall not be liable for non-compliance with the obligations referred to in paragraph 1 if they prove that such non-compliance was due to a cause not attributable to them.³⁷

5. The DGFP shall also report non-compliance or partial compliance with publication requirements to the State Congress.

Art. 12

(Final Rules)

1. The DGFP, through the Internal and External Communication Service, shall define criteria, models and standard schemes for the organization, codification and representation of documents, information and data subject to publication in accordance with article 31 of Law n.160/2011, with these regulations and with special rules, having consulted, until its replacement by the User Guarantee Authority, the Guarantor for the protection of confidentiality of personal data referred to in article 15 of Law n.70/1995.

2. The DGFP has the power, in accordance with the provisions of Article 23, paragraph 3, letters b) and f) of Law no. 188/2011 to issue directives, guidelines and circulars implementing these regulations and to monitor compliance with them, with particular reference to the need to ensure the easy accessibility of the data published on institutional websites, including through the implementation of the web portal of the Public Administration.

3. The organs, offices, services, companies and autonomous public bodies of the State shall be required, in fulfilling their obligations to publish, to comply with the standards, models and schemes referred to in paragraph 1 and the acts of guidance referred to in paragraph 2.

4. The publication of the documents provided for in Article 31 of Law n.160/2011 and in the articles above shall be completed within one hundred and eighty days of the entry into force of these regulations.

Given from Our Residence³⁸ on the 2nd day of December, 2015/1715 d.F.R.

CAPTAINS REGENT

Lorella Stefanelli – Nicola Renzi

THE SECRETARY
OF STATE FOR
DOMESTIC
AFFAIRS
Gian Carlo Venturini

³⁷ TN: The interpretation of this line might be of legal significance.

³⁸ TN: Or “abode” or “residency,” but this is clearly formalistic, ceremonial language for a closing either way.