



# REPUBLIC OF SAN MARINO

DELEGATED DECREE No. 74 of 19 June 2009

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

*Having regard to Delegated Decree no. 62 of 4 May 2009 “Cross-border transportation of cash and similar instruments” promulgated: Having regard to Article 90, paragraph 1, point b) of Law no. 92 of 17 June 2008;*

*Having regard to Decision no. 14 of the Congress of State,  
adopted in the sitting of 14 April 2009;*

*Having regard to the amendments introduced to the aforesaid decree during the ratification thereof by the Great and General Council in its sitting of 16 June 2009;*

*Having regard to Articles 8 and 9, paragraph 5 of Qualified Law no. 186/2005;*

*Promulgate and order the publication of the final text of Delegated Decree no. 62 of 4 May 2009, as amended by the Great and General Council on the occasion of its ratification:*

## **RATIFICATION OF DELEGATED DECREE NO. 62 OF 4 MAY 2009 - CROSS-BORDER TRANSPORTATION OF CASH AND SIMILAR INSTRUMENTS**

### **Article 1** *(Definitions)*

1. For the purposes of this Decree, the following definitions shall apply:

- a) Financial Intelligence Agency: the Financial Intelligence Agency referred to in Article 2 of Law no. 92 of 17 June 2008 (“Provisions on Preventing and Combating Money Laundering and Terrorist Financing”);
- b) Police Forces: the Gendarmerie Corps, the Civil Police Corps and the Fortress Guard Uniformed Unit;
- c) Financial Parties: the parties referred to in Article 18, paragraph 1, letters a) and b) of Law no. 92 of 17 June 2008;
- d) cash: banknotes and coins in Euro or other currency;
- e) similar instruments: bearer-negotiable instruments, including travellers cheques, cheques, bills of exchange and payment orders, issued to the bearer or without endorsement restrictions, instruments issued in a form such that the related title is transferred on delivery as well as signed instruments that do not specify the name of the beneficiary or which specify a fictitious beneficiary.

## **Article 2**

*(Transfers of money, securities and stocks and shares to and from foreign Countries)*

1. Any natural person entering or leaving the territory of the Republic of San Marino shall be required to declare the transport of cash and similar instruments in Euro or foreign currencies for a total amount exceeding € 10,000 or the equivalent value.
2. The declaration, made in writing, shall be filed in compliance with the model attached to this Delegated Decree; it shall be submitted to the Commands or branch offices of the Police Forces.  
As an alternative, the declaration may be submitted to the Financial Parties referred to in Article 1.  
In all cases, a copy of the declaration, with acknowledgement of receipt, shall be returned to the declarant, who shall carry such copy with him.  
The obligation of declaration shall not be fulfilled if the information provided is incorrect or incomplete.
3. The obligation of declaration shall not apply to transfers by postal orders or promissory notes, or giro cheques, bank cheques or bank drafts, which specify the name of the beneficiary and the clause “non-negotiable” and are drawn on or issued by authorised parties under Law no. 165 of 17 November 2005, or drawn on or issued by foreign parties that mainly carry out an activity falling under the reserved activities indicated in Attachment 1 to Law no. 165 of 17 November 2005, established in a State applying obligations equivalent to those set forth by this Decree and imposing supervision and control over compliance with such obligations for the purposes of preventing and countering money laundering and terrorist financing.
4. The obligation of declaration shall also apply to transfers of cash and similar instruments, to and from foreign Countries, carried out by post. Even in such case, the declaration shall be provided in writing, through the model attached hereto, to the post office at the time of shipment, or within 48 hours following receipt. The post office shall send a copy of the declaration signed by the declarant to the Financial Intelligence Agency within the following 5 days. Sundays and holidays shall not be included in computing the time limits.

## **Article 3**

*(Police checks)*

1. In carrying out regular border controls, Police personnel may verify the identity of persons and conduct inspections on vehicles and luggage, in order to ensure that the obligations referred to in Article 2 are fulfilled.
2. Police authorities shall also subject persons, vehicles and their contents to control measures, if there are reasonable grounds to believe that the transportation of cash or similar instruments is connected to money laundering or terrorist financing.

## **Article 4**

*(Administrative violations)*

1. Anyone failing to file the declaration or providing inaccurate or incomplete information shall be punished with an administrative sanction up to 40% of the amount transferred or attempted to be transferred, exceeding the equivalent value of € 10,000, with a minimum of € 200.
2. The pecuniary administrative sanction shall be applied even if the facts are envisaged as an offence by another provision of this Decree or other laws.
3. If the administrative violation is connected to an offence, the Financial Intelligence Agency shall separately prosecute the administrative violation.

## **Article 5**

*(Omitted and false declaration on the personal details of the beneficiary)*

1. Unless the act constitutes a more serious offence, anyone who in making the declaration provided for in Article 2 omits to provide the personal details of the person on whose behalf they are transferring cash or similar instruments to and from foreign Countries or provides false information shall be punished by terms of imprisonment or second degree arrest or with a third degree daily fine.

## **Article 6**

*(Seizure)*

1. When the provisions envisaged by Article 2 of this Decree are violated, cash and similar instruments transferred or attempted to be transferred exceeding the equivalent value of € 10,000 shall be subject to administrative seizure.
2. Police officers shall draw up an official report on the seizures made and the declarations submitted by the persons involved, who shall be invited to sign the official report and shall be entitled to receive a copy thereof. A copy of the official report shall be forwarded to the Financial Intelligence Agency. Police personnel shall deposit the sums or the assets seized with the Financial Intelligence Agency within the next working day.
3. By means of the official report referred to in paragraph 2, or a separate deed, the violations which can be punished with administrative sanctions shall be claimed and the provisions under Article 33 of Law no. 68 of 28 June 1989 shall be applied.
4. Seizure shall be executed within the limit of 40% of the amount exceeding € 10,000.
5. Seizure shall be executed without the limit specified in paragraph 4 of this Article when the object of the seizure is indivisible.
6. Seizure shall be executed without the limit specified in paragraph 4 also when, owing to the nature and amount of the assets transferred or attempted to be transferred, the related value in Euro cannot be easily assessed at the time of seizure. In such case, seized assets exceeding the limit specified in paragraph 4 shall be returned to the persons entitled within thirty days of the date on which seizure was executed.
7. The interested party may obtain return of cash, instruments and securities seized by depositing collateral equal to the maximum amount of the applicable administrative sanction with the State Treasury. The collateral may be replaced by a guarantee in the same amount provided by a bank operating in the Republic of San Marino.
8. The provisions for return referred to in previous paragraphs shall be established by the Financial Intelligence Agency.
9. The interested parties may lodge an appeal against the seizure order to the Financial Intelligence Agency under Article 12 of Law no. 68 of 28 June 1989.
10. Cash or similar instruments subject to seizure under paragraph 1 of this Article shall be returned to the persons entitled when:
  - a) the interested party demonstrates that one of the conditions envisaged by Article 2, paragraph 3 of this Decree applies;
  - b) they are not retained as payment of the administrative sanction provided for by Article 4 of this Decree;
  - c) the author of the violation is deceased.
11. Cash and similar instruments seized shall guarantee, with preference over any other credit, the payment of the pecuniary administrative sanctions applied.

12. The Financial Intelligence Agency shall order the return of cash and similar instruments seized, which are not retained as payment of the administrative sanction referred to in Article 4 of this Decree, to the persons entitled requesting them within five years from the date of seizure.

#### **Article 7**

*(Ascertainment of violations)*

1. The Financial Intelligence Agency shall ascertain the administrative violations and apply the sanctions envisaged by this Decree.
2. The provisions referred to in Title VI, Chapter III of Law no. 92 of 17 June 2008 (Provisions on Preventing and Combating Money Laundering and Terrorist Financing) shall be applied.

#### **Article 8**

*(Voluntary settlement)*

1. The person charged with the violation referred to in Article 4 of this Decree, by way of derogation from Article 33, paragraph 1, letter a) of Law no. 68 of 28 June 1989, may exercise the right to voluntary settlement, which consists in the immediate payment equal to 10% of the money or similar instruments exceeding the threshold of € 10,000, with a minimum of € 200.
2. The payment shall be executed, in the modalities specified in the provision for the ascertainment of the violation, within 20 days of its notification. The Financial Intelligence Agency shall order the return of money or similar instruments within ten days following receipt of proof of payment.
3. When the payment of the administrative sanction is made simultaneously with the official report by Police officers, the seizure referred to in Article 6, paragraph 4 of this Decree shall not be executed. Police officers shall deposit the equivalent amount with the State Treasury within the next working day.
4. Voluntary settlement shall not be allowed when cash or similar instruments transferred or attempted to be transferred exceed the value of € 250,000.

#### **Article 9**

*(Communication to the Financial Intelligence Agency)*

1. Without prejudice to Article 6, paragraph 2 of this Decree, Police Forces and Financial Parties shall transmit a copy of all declarations received under Article 2 to the Financial Intelligence Agency.
2. The transmission of declarations to the Financial Intelligence Agency, carried out every month, shall take place within the tenth day following the reference month.
3. By way of derogation from the provision enshrined in paragraph 2, Police Forces and Financial Parties shall forward, within the next working day, a copy of the declarations referred to in paragraph 1 of this Article in the event of facts and circumstances from which it is inferred that sums of cash are connected to money laundering and terrorist financing.

#### **Article 10**

*(National and International Cooperation)*

1. All data and information acquired by the Financial Intelligence Agency under this Delegated Decree may be exchanged with other competent national Authorities, when facts and circumstances arise from which it is inferred that sums of cash or similar instruments are connected to money laundering and terrorist financing.
2. The Financial Intelligence Agency may also exchange the information acquired with foreign financial intelligence units, under Article 16 of Law no. 92 of 17 June 2008.

**Article 11**  
*(Repeals)*

1. This Delegated Decree shall completely supersede Delegated Decree no. 138 of 31 October 2008, which is therefore repealed.

Done at Our Residence, on 19 June 2009

THE CAPTAINS REGENT  
*Massimo Cenci – Oscar Mina*

THE SECRETARY OF STATE FOR  
INTERNAL AFFAIRS  
*Valeria Ciavatta*