



# REPUBLIC OF SAN MARINO

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

*Having regard to Article 4 of Constitutional Law no. 185/2005 and to Article 6 of Qualified Law no. 186/2005;*

*Hereby promulgate and order the publication of the following Ordinary Law, approved by the Great and General Council during its sitting of 4 September 2014:*

### **LAW NO. 139 OF 5 SEPTEMBER 2014**

## **PROVISIONS FOR THE ENHANCEMENT OF INTERNATIONAL SECURITY IN CIVIL AVIATION AND MARITIME NAVIGATION**

### **TITLE I GENERAL PROVISIONS**

#### **Art. 1** *(Scope of application)*

1. This Law contains measures designed to prevent and suppress terrorist acts against civil aviation and maritime navigation, which affect the operation of services and the management of airports, ports and fixed installations and which endanger the safety of aircraft and ships, as well as of people on board, in order to protect peace, territorial integrity and international security.
2. The offences provided for in this Law, in particular those intended to provoke a state of terror in the population, in a group of persons or in single individuals, shall not be justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious nature or by other similar reasons.

#### **Art. 2** *(San Marino jurisdiction)*

1. Without prejudice to Articles 5 and 6, paragraph 3, of the Criminal Code, San Marino law shall apply to:
  - a) any national committing abroad the offences provided for by this Law;
  - b) any foreigner committing abroad the offences provided for by this Law, when he is present in the territory of the State and has not been extradited;
  - c) any national or foreigner committing one of the offences provided for by this Law:

- 1) on an aircraft registered in San Marino;
  - 2) on an aircraft, wherever registered, landing on the territory of San Marino when the offender is still on board;
  - 3) when the aircraft, even if not registered in San Marino, was leased or chartered to San Marino or foreign entities, either public or private, or to natural persons, domiciled on the territory of the Republic of San Marino;
  - d) any foreigner committing abroad one of the offences provided for by this Law against or on board a ship, an aircraft or in an airport or on a installation of San Marino;
  - e) any foreigner committing abroad one of the offences provided for by this Law in order to force a State body to perform any act or abstain from performing it.
2. San Marino law shall also apply:
- a) in case the aircraft, on board of which an offence provided for by this Law was committed, lands on the territory of the State when the offender is still on board;
  - b) in case the offence is committed against or on board an aircraft chartered, without crew, to a person having its head office in the Republic of San Marino or, otherwise, permanently residing therein.

## **CHAPTER I**

### **SUPPRESSION OF OFFENCES AGAINST CIVIL AVIATION SECURITY AND OF ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION**

#### **Art. 3** *(Definitions)*

1. For the purpose of this Chapter:
  - a) an aircraft shall be considered to be in flight from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authority takes over the responsibility for the aircraft and for persons and property on board;
  - b) an aircraft shall be considered to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in letter a) above.

#### **Art. 4** *(Unlawful seizure of aircraft)*

1. Anyone who, by violence or threat, performs an act aimed at seizing an aircraft in flight and anyone who, by violence, threat or fraud, performs an act aimed at hijacking or destroying an aircraft in flight shall be punished with fifth degree imprisonment.
2. Sixth degree imprisonment shall apply if the offender achieves his objective.
3. Seventh degree imprisonment shall apply if this act causes injuries to passengers or crew members.
4. Eighth degree imprisonment shall apply if this act causes the death of one or more persons.
5. Anyone who, in order to hijack or destroy an aircraft, damages air navigation ground installations or alters the way in which they are used shall be subject to the punishments referred to in the preceding paragraphs.

## **Art. 5**

### *(Offences against the safety of civil aviation)*

1. Sixth degree imprisonment shall be applied to anyone who:
  - a) performs an act of violence against a person on board an aircraft if the act is such as to endanger the safety of that aircraft;
  - b) destroys or seriously damages an aircraft in such a way as to make it unfit for flight or to jeopardise flight safety;
  - c) places on an aircraft devices or substances likely to destroy that aircraft or to damage it so as to make it unfit for flight or to jeopardise flight safety;
  - d) destroys or damages air navigation installations or services or alters their functioning, so as to jeopardise the safety of aircraft in flight;
  - e) intentionally communicates false information so as to jeopardise the safety of an aircraft in flight.
2. The same punishment shall apply, if safety at the airport is endangered or jeopardised, to anyone who, using any device, substance or weapon:
  - a) performs, against a person at an airport serving international civil aviation, an act of violence likely to cause injury or to kill;
  - b) destroys or damages the facilities of an airport serving international civil aviation or of aircraft not in service located in the airport, or disrupts the services of the airport.
3. The punishments referred to in paragraph 1 shall be increased by one degree where the acts are performed on an aircraft in flight or in service.
4. Anyone who, in performing one of the acts envisaged in the preceding paragraphs, causes the death of a person shall be punished with eighth degree imprisonment.
5. Anyone who, in performing one of the acts envisaged in the preceding paragraphs, causes any bodily injury shall be punished with seventh degree imprisonment.

## **Art. 6**

### *(Powers of the pilot in command and of the crew)*

1. Where there is sufficient evidence to believe that a person has committed an offence referred to in this Chapter, the pilot in command of the aircraft may also adopt coercive measures against the alleged offender in order to ensure the safety of the aircraft and of persons or property on board.
2. To this end, the pilot in command of the aircraft may require or authorise the assistance of other crew members and may request or authorise, but not require, the assistance of passengers.
3. Any crew member or passenger may also take reasonable preventive measures without such authorisation when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein
4. The coercive measures shall cease to be applied at the time of delivery of the alleged offender to the competent authorities.
5. The pilot in command shall inform the competent authorities in advance of the presence on board of a person subjected to a coercive measure, of the reasons for this measure and of the intention to land and disembark the alleged offender.
6. The pilot in command of the aircraft shall inform the authorities, to which the alleged offender is delivered, of the evidence and information that are lawfully in his possession.
7. Neither the pilot in command of the aircraft, any other crew member, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible for the legitimate measures taken under this Article.

**CHAPTER II**  
**SUPPRESSION OF OFFENCES AGAINST THE SAFETY OF MARITIME NAVIGATION AND THE**  
**SECURITY OF FIXED INSTALLATIONS ON THE CONTINENTAL SHELF**

**Art. 7**  
*(Definitions)*

1. For the purpose of this Chapter:
  - a) "ship" shall mean a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles and any other floating craft;
  - b) "transport" shall mean to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or item;
  - c) "serious injury or damage" shall mean:
    - 1) serious bodily injury, or
    - 2) extensive destruction of a place of public use, State or government facility, infrastructure facility or public transportation system resulting in major economic loss, or
    - 3) substantial damage to the environment, including air, soil, water, fauna or flora;
  - d) "BCN weapons" shall mean:
    - 1) "biological weapons" that are:
      - 1.1) microbial or other biological agents, as well as toxins regardless of their origin or method of production, of types and in quantities not intended for prophylactic, protective or other peaceful purposes, or
      - 1.2) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;
    - 2) "chemical weapons" that are, together or separately:
      - 1.1) toxic chemicals and their precursors, except where intended for:
        - A) industrial, agricultural, medical, pharmaceutical, research or other peaceful purposes or
        - B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons or
        - C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare or
        - D) law enforcement, including domestic riot control purposes, as long as the types and quantities involved are consistent with such purposes;
      - 1.2) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in point 2), number 1.1) above, which would be released as a result of the employment of such devices and munitions;
      - 1.3) any material specifically designed for use directly in connection with the employment of munitions and devices specified in point 2), number 1.2);
    - 3) nuclear weapons and other nuclear explosive devices;
  - e) "toxic chemical" shall mean any chemical which, through its chemical action on biological processes, may cause death, temporary incapacitation or permanent harm to humans or animals. This shall include all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere;
  - f) "precursor" shall mean any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This shall include any key components of a binary or multicomponent chemical system;
  - g) "place of public use", "State or government facility", "infrastructure" and "public transportation system" shall be understood in accordance with the Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997;

- h) "source materials" and "special fissionable materials" shall be understood in accordance with the Statute of the International Atomic Energy Agency (IAEA), approved in New York on 26 October 1956;
- i) "fixed installation" shall mean an artificial island, platform or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

#### **Art. 8**

*(Offences against the safety of maritime navigation and against fixed installations on the continental shelf)*

1. Anyone who, by violence or threat, seizes or exercises control over a ship or a fixed installation shall be punished with sixth degree imprisonment.
2. The same punishment shall be applied, if the offence is likely to endanger the safe navigation of a ship or the safety of a fixed installation, to anyone who:
  - a) performs an act of violence against a person on board the ship or installation;
  - b) destroys or damages the ship or its cargo, or the installation;
  - c) places on a ship or on an installation, by any means whatsoever, a device or substance which is likely to destroy or damage the ship, its cargo or the installation;
  - d) destroys or seriously damages maritime navigation facilities or services, or seriously interferes with their operation;
  - e) intentionally communicates false information relating to navigation.
3. Anyone who threatens to perform any of the acts referred to in paragraph 2, letters a), b) and d) shall be punished with fifth degree imprisonment.
4. Anyone who, in performing one of the acts envisaged in paragraphs 1 and 2, causes the death of a person shall be punished with eighth degree imprisonment.
5. Anyone who, in performing one of the acts envisaged in paragraphs 1 and 2, causes any bodily injury shall be punished with seventh degree imprisonment.

#### **Art. 9**

*(Use, unloading and transport on ships of explosives, radioactive material and chemical weapons)*

1. Sixth degree imprisonment shall be applied to anyone who, in order to perform an act intended to intimidate a population or compel a government or an international organisation to do or abstain from doing any act:
  - a) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage;
  - b) discharges from a ship oil, liquefied natural gas or other hazardous or noxious substance not referred to in paragraph a) in such a quantity or concentration that causes or is likely to cause serious bodily injury or damage;
  - c) uses a ship in a manner that causes death or serious injury or damage.
2. Anyone threatening to perform any of the acts referred to in paragraph 1, letters a), b) and c) shall be punished with fifth degree imprisonment.
3. Sixth degree imprisonment shall be applied to anyone who, in order to perform an act intended to intimidate a population or compel a government or an international organisation to do or abstain from doing any act, transports on board a ship:
  - a) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, death or serious injury or damage;
  - b) any BCN weapon, knowing it to be a BCN weapon as defined in this Law;

- c) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement;
  - d) any equipment, materials or software or related technology that significantly contribute to the design, manufacture or delivery of a BCN weapon, with the intention that it be used for such purpose.
4. It shall not be an offence under this Law to transport an item or material referred to in paragraph 3, letter c) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, in paragraph 3, letter d), if such item or material is transported to or from the territory of, or is otherwise transported under the control of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, where:
- a) the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to such State Party's obligations under the Non-Proliferation Treaty;
  - b) if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a State Party to the Non-Proliferation Treaty, the holding of such weapon or device is not contrary to that State Party's obligations under that Treaty.

#### **Art. 10**

*(Transport on board a ship of persons who have committed an act of terrorism)*

1. Anyone who transports another person on board a ship knowing that the person has performed an act that constitutes an offence of terrorism in accordance with the international treaties to which the Republic of San Marino has adhered, and intending to assist that person to evade criminal prosecution, shall be punished with fourth degree imprisonment.

#### **Art. 11**

*(Attacks on fixed installations)*

1. Sixth degree imprisonment shall be applied to anyone who, in order to intimidate a population or compel a government or an international organisation to do or abstain from doing any act:
- a) places or uses on a fixed installation, or discharges from a fixed installation any explosive, radioactive material or BCN weapon in a manner that causes death or serious injury to one or more persons or serious damage;
  - b) discharges from a fixed installation oil, liquefied natural gas or hazardous or noxious substance other than those referred to in letter a) in such a quantity and concentration that causes death or serious injury to one or more persons or serious damage.
2. Anyone who, in performing one of the acts envisaged in the preceding paragraphs, causes the death of a person shall be punished with eighth degree imprisonment.
3. Anyone who, in performing one of the acts envisaged in the preceding paragraphs, causes any bodily injury shall be punished with seventh degree imprisonment.
4. Anyone threatening to commit an offence envisaged by this Article shall be punished with fifth degree imprisonment.

#### **Art. 12**

*(Powers of the master of a ship and of the crew)*

1. Where there is sufficient evidence to believe that a person has committed an offence referred to in this Chapter, the master of the ship may also adopt coercive measures against the alleged offender, in order to ensure the safety of the ship and of persons or property on board.

2. The coercive measures shall cease to be applied at the time of delivery of the alleged offender to the competent authorities.
3. The master of the ship shall inform the competent authorities in advance of the presence on board of a person subjected to a coercive measure, of the reasons for this measure and of the intention to deliver the alleged offender.
4. The master of the ship shall inform the authorities, to which the alleged offender is delivered, of the evidence and information that are lawfully in his possession.
5. The Civil Aviation and Maritime Navigation Authority of the Republic of San Marino shall request the express authorisation of the flag State to inspect a ship or to take the appropriate measures, which may be to stop the ship, to board and search the ship, its cargo and persons on board and to question the persons on board in order to determine whether an offence under this Chapter has been, is being or is about to be committed. It shall also ensure that the master of the ship is advised of the intention to carry out an inspection and is afforded the opportunity to contact the ship's owner and the flag State at the earliest opportunity.
6. When evidence of an offence is found as the result of an inspection conducted pursuant to paragraph 5, the Republic of San Marino may be authorised by the flag State to detain the ship, cargo and persons on board pending receipt of appropriate instructions.
7. When carrying out the authorised actions under this Article, the use of force shall be avoided except when necessary to ensure the safety of officials and persons on board, or where the officials are obstructed in the execution of the authorised actions.
8. In taking the measures referred to in this Article, the competent authorities shall protect fundamental human rights, the environment, security and safety of the ship and its cargo, as well as the need not to prejudice the commercial or legal interests of the flag State.

**TITLE II**  
**PROVISIONS ON INTERNATIONAL COOPERATION, COMMUNICATION, LEGAL ASSISTANCE AND EXTRADITION**

**Art. 13**

*(International cooperation measures)*

1. The Republic of San Marino shall cooperate in the prevention of the offences provided for by this Law:
  - a) a) by taking all practicable measures to prevent or counter preparations in its territory for the commission within or outside its territory of the offences set forth in this Law, including measures to prohibit illegal activities of persons, groups and organisations that encourage, instigate, organise, knowingly finance or knowingly provide technical assistance or information or engage in the perpetration of those offences;
  - b) b) by exchanging information upon request and coordinating administrative and other measures taken as appropriate to detect, prevent, suppress and investigate the offences set forth in this Law and also in order to institute criminal proceedings against persons alleged to have committed those offences.
2. When, due to the commission of one of the offences mentioned in Chapter I, a flight has been delayed or interrupted, and the aircraft, the passengers or the crew are present in the territory of the Republic of San Marino, the latter shall facilitate the continuation of the journey of the passengers and crew and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.
3. When, due to the commission of one of the offences mentioned in Chapter II, a ship has been delayed or interrupted, the State Party in whose territory the ship or passengers or crew are

present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

**Art. 14**

*(Communication to interested Organisations and States)*

1. The judicial Authority shall inform the Ministry of Foreign Affairs without delay of:
  - a) the enforcement of an order for pre-trial detention or home arrest of the persons alleged to have committed the offences provided for by this Law;
  - b) any criminal prosecution of the offences provided for by this Law;
2. The Ministry of Foreign Affairs shall notify without delay the measures and information referred to in paragraph 1 above directly or through the Civil Aviation and Maritime Navigation Authority to:
  - a) the State where the offence was committed;
  - b) the State of registration of the aircraft;
  - c) the State whose flag the ship is flying;
  - d) the State where the aircraft lands or the ship arrives, on board of which the offence was committed, when the alleged offender is still on board;
  - e) the State of domicile of San Marino or foreign entities, either public or private, or of natural persons to whom the aircraft was leased or chartered;
  - f) the State of which the alleged offender is a national or, if he is a stateless person, in the territory of which he has his habitual residence or abode;
  - g) all other States concerned.
3. Any person against whom the measures referred to in paragraph 1 of this Article are being taken shall be entitled:
  - a) to communicate without delay with the nearest appropriate representative of the State of which that person is a national or that is otherwise entitled to establish such contact, or, if that person is a stateless person, of the State in the territory of which he habitually resides;
  - b) to be visited by a representative of that State;
  - c) to be informed of his rights.
4. The judicial Authority shall inform without delay the Ministry of Foreign Affairs that the judgement has become final or that the decision to close the case has been deposited, by enclosing a copy of the relevant provision, with regard to the offences provided for by this Law. The Ministry shall inform the Council of the International Civil Aviation Organization or the International Maritime Organization thereof.

**Art. 15**

*(Legal assistance)*

1. Without prejudice to the provisions contained in legal assistance agreements, the Republic of San Marino shall afford the greatest measure of assistance in connection with the acts covered by this Law, including the supply of evidence at its disposal necessary for the criminal proceedings started by the foreign judicial Authority.

**Art. 16**

*(Extradition provisions)*

1. With regard to the offences provided for by this Law, in the absence of specific international treaties, the extradition of the person present in the territory of the Republic shall be governed by Law no. 41 of 31 March 2014.



2. For the purpose of extradition, the facts provided for by this Law shall in no case be regarded as political offences.
3. If, for any reason, the person present in the territory of San Marino is not extradited, San Marino judicial Authority shall start proceedings for the same facts for which extradition has been rejected, irrespective of the fact that the starting of proceedings has been requested by the foreign State.

**Art. 17**

*(Transfer of a person abroad)*

1. In the absence of specific international treaties, where a foreign judicial Authority requests - for the purposes of carrying out procedural acts related to the offences provided for by this Law - the presence of a person under preventive detention or serving imprisonment as ordered by the San Marino judicial Authority, the judge may authorise the transfer of said person provided that:
  - a) the person to be transferred freely gives his informed consent;
  - b) the requesting State adopts the measures deemed most appropriate by San Marino judicial Authority for the purposes of the transfer;
  - c) the State to which the person is transferred commits itself to keeping the person transferred in custody, unless otherwise requested or authorised by San Marino judicial Authority;
  - d) the State to which the person is transferred commits itself to returning, without delay, the person as agreed beforehand between or decided by the requesting Authority and San Marino Authority;
  - e) the State to which the person is transferred commits itself not to make the subsequent return of the person transferred conditional upon the starting of extradition proceedings;
  - f) the State to which the person is transferred neither prosecutes nor subjects that person to imprisonment or to any other restriction of his personal liberty in respect of convictions imposed before the date of his transfer, unless otherwise authorised by San Marino judicial Authority;
  - g) the State to which the person is transferred does not envisage the death penalty in its legal system.
2. San Marino judicial Authority shall take into due account the time spent in the custody of the State to which the person was transferred to determine the punishment to be served in the Republic of San Marino by said person.

**Art. 18**

*(Punishments applicable to the offences referred to in paragraphs 5, 6 and 7 of Article 60 of Law no. 125/2014 - Law reforming civil aviation - committed with terrorist intent)*

1. If the offences referred to in paragraphs 5, 6 and 7 of Article 60 of Law no. 125 of 29 July 2014 "Law reforming civil aviation" are committed with terrorist intent, sixth degree imprisonment shall apply. The punishments shall be increased by one degree where the offences are committed on an aircraft in flight or in service.
2. Anyone who, in committing any of the offences referred to in paragraph 1, causes bodily injury shall be punished with seventh degree imprisonment; if he causes the death of a person, he shall be punished with eighth degree imprisonment.

**Art. 19**

*(Entry into force)*

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

*Done at Our Residence, on 5 September 2014/1714 since the Foundation of the Republic*

THE CAPTAINS REGENT  
*Valeria Ciavatta – Luca Beccari*

THE MINISTER  
OF INTERNAL AFFAIRS  
*Gian Carlo Venturini*