



REPUBLIC OF SAN MARINO

DECREE-LAW no. 153 of 17 September 2020

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

Having regard to the conditions of need and urgency referred to in Article 2, paragraph 2, letter b) of Constitutional Law no. 183 of 15 December 2005 and Article 12 of Qualified Law no. 184 of 15 December 2005, and more precisely:

- *the need to align the domestic legislation of the Republic of San Marino with the requirements of international bodies, such as Moneyval - the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - and to prepare effective procedures also in view of the forthcoming Moneyval's evaluation visit;*
- *the urgency to comply with the legal obligations to which the Republic of San Marino is subject under the international law on anti money laundering and terrorist financing and to implement FATF methodology, which is a benchmark also for Moneyval;*

*Having regard to Congress of State Decision no. 2, adopted during its sitting of 11 September 2020;
Having regard to Article 5, paragraph 2 of Constitutional Law no. 185/2005 and to Article 9, paragraph 1, and Article 10, paragraph 2 of Qualified Law no. 186/2005;
Promulgate and order the publication of the following Decree-Law:*

ALIGNMENT OF NATIONAL LEGISLATION WITH INTERNATIONAL CONVENTIONS AND STANDARDS ON THE PROCESSING OF PERSONAL DATA AND THE PREVENTION AND COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING

CHAPTER I PROCESSING OF PERSONAL DATA BY PUBLIC ENTITIES OR BODIES EXERCISING ACTIVITIES IN THE PUBLIC INTEREST

Art. 1

1. Pursuant to Article 3, paragraph 4 of Law no. 171 of 21 December 2018, hereunder are the public entities and bodies carrying out activities in the public interest, established or regulated by law, for the purpose of preventing, investigating, assessing or prosecuting crimes or executing criminal sanctions, including protection against threats to public security and their prevention, which are not covered by Law no. 171/2018:

- a) Judicial Authority;
- b) Police Forces;

- c) The National Central Bureau of INTERPOL in the performance of all functions entrusted to it;
- d) Financial Intelligence Agency;
- e) The Central Bank of the Republic of San Marino when it operates as supervisory authority;
- f) The Committee for Restrictive Measures referred to in Law no. 57 of 28 March 2019;
- g) The Permanent Counter-Terrorism Commission referred to in Law no. 21 of 31 January 2019;
- h) The Counter-Terrorism Squad referred to in Law no. 21/2019;
- i) The Counter-Terrorism Crisis Unit referred to in Law no. 21/2019.

2. The exchange of personal data by the public entities and bodies referred to in paragraph 1 for the purposes mentioned therein shall not be limited or prohibited for reasons relating to the protection of individuals with regard to the processing of personal data pursuant to Law no. 171/2018.

CHAPTER II

AMENDMENTS TO LAW NO. 92 OF 17 JUNE 2008

Art. 2

(Amendments to Article 1 of Law no. 92 of 17 June 2008 and subsequent amendments)

1. In paragraph 1, letter k) of Article 1 of Law no. 92 of 17 June 2008 and subsequent amendments, the following part shall be repealed: "without prejudice to Article 337-ter of the Criminal Code".
2. In paragraph 2 of Article 1 of Law no. 92 of 17 June 2008 and subsequent amendments, the following part shall be repealed: "without prejudice to Articles 199 and 199-bis of the Criminal Code."

Art. 3

(Amendments to Article 21 of Law no. 92 of 17 June 2008 and subsequent amendments)

1. Letter c) of paragraph 1 of Article 21 of Law no. 92/2008 and subsequent amendments shall be amended as follows:
"c) when they perform occasional transactions representing a transfer of funds or virtual assets equal to or higher than EUR 1,000.00;"
2. After paragraph 5 bis of Article 21 of Law no. 92/2008 and subsequent amendments, the following paragraph shall be added:
"5 ter. Virtual asset service providers shall fulfil customer due diligence obligations when they perform occasional transactions of an amount equal to or higher than EUR 1,000.00 or the countervalue in foreign currency."

Art. 4

(Amendments to Article 27-bis of Law no. 92 of 17 June 2008 and subsequent amendments)

1. Point ii) of paragraph 2 of Article 27-bis of Law no. 92 of 17 June 2008 and subsequent amendments shall be amended as follows:
"ii) take adequate measures to establish the source of funds used in business relations with such persons and of all their assets;"

Art. 5

(Amendments to Article 29 of Law no. 92 of 17 June 2008 and subsequent amendments)

1. Paragraph 2 bis of Article 29 of Law no. 92/2008 and subsequent amendments shall be amended as follows:

"2 *bis*. Obligated entities shall immediately obtain the information referred to in paragraph 1 from the third parties upon which they rely and shall also take appropriate measures to ensure that third parties, also in case they have introduced the customer, immediately provide, upon request, the relevant information and any document relating to the identification and verification of the identity of the customer and of the beneficial owner, as well as to the fulfilment of due diligence requirements."

Art. 6

(Amendments to Article 34 of Law no. 92 of 17 June 2008 and subsequent amendments)

1. After paragraph 2 of Article 34 of Law no. 92/2008 and subsequent amendments, the following paragraph shall be added:

"2 *bis*. Registrations shall allow for the reconstruction of all individual transactions, so as to provide, if necessary, the evidentiary basis for the prosecution of unlawful activities."

CHAPTER III

AMENDMENTS TO DELEGATED DECREE NO. 74 OF 19 JUNE 2009

Art. 7

(Amendments to Article 2 of Delegated Decree no. 74 of 19 June 2009)

1. Paragraph 4 of Article 2 of Delegated Decree no. 74 of 19 June 2009 and subsequent amendments shall be amended as follows:

"4. The obligation to provide a declaration shall also apply to transfers of cash and similar instruments, from and to abroad, made by post, courier, aircraft or other cargo. Also in this case the declaration shall be made in writing, through the attached form, to be delivered to the headquarters or the branch offices of the Police Forces within 48 hours following the receipt or upon shipment."

CHAPTER IV

AMENDMENTS TO LAW NO. 57 OF 29 MARCH 2019

Art. 8

(Amendments to Article 1, paragraph 1 of the Technical Annex to Law no. 57 of 29 March 2019)

1. After letter f) of Article 1, paragraph 1 of the Technical Annex to Law no. 57 of 29 March 2019, the following letter shall be introduced:

"f *bis*) virtual assets."

Done at Our Residence, on 17 September 2020/1720 since the Foundation of the Republic

THE CAPTAINS REGENT

Alessandro Mancini – Grazia Zafferani

THE MINISTER OF
INTERNAL AFFAIRS

Elena Tonnini

