

Unofficial Translation

The Italian text shall be legally binding



REPUBLIC OF SAN MARINO

DELEGATED DECREE no. 178 of 29 December 2009

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

Having regard to Article 90 of Law no. 168 of 21 December 2009;

Having regard to Congress of State's Decision no. 6, adopted during its sitting of 29 December 2009;

Having regard to Article 5, paragraph 3 of Constitutional Law no. 185/2005 and to Articles 8 and 10, paragraph 2 of Qualified Law no. 186/2005;

Promulgate and order the publication of the following Delegated Decree:

**REGULATION ON THE RESTRICTED WIRETAPPING ARCHIVE REFERRED TO IN
ARTICLE 13, PARAGRAPH 2 OF LAW NO. 98 OF 21 JULY 2009**

Art. 1

(Wiretapping archive)

1. The restricted wiretapping archive shall be located in an apposite room at the Single Court, which shall have a safety lock and its door may be locked from inside.
2. The keys of the wiretapping archive shall be delivered exclusively to the Investigating Judges and the Registrar responsible for the Criminal Registry. The latter may have access to the archive only upon written authorisation of the Investigating Judge, the Judge responsible for Wiretapping or the competent Judge before whom the single stages of the proceeding are carried out.
3. The room shall contain three reinforced security cabinets in which the material concerning the wiretapping operations ordered by each Investigating Judge shall be kept. The keys of the reinforced security cabinet shall be kept by the Investigating Judge to whom the cabinet is assigned or, under his/her responsibility, by the staff authorised by a written power of attorney. The keys shall be delivered to the Registrar only by the Investigating Judge concerned in order to perform his/her official duties or to grant access to persons authorised by law.
4. Authorised persons shall stay in the archive in the constant presence of the Registrar or of adequate staff delegated by the Investigating Judge under his/her responsibility.
5. The material kept in the archive shall only be consulted within the room, unless otherwise provided for by the Judge through an apposite order which shall contain any necessary rule to protect confidentiality.

6. With a view to planning accesses and ensuring that persons interested in different proceedings are not all present at the same time in the archive, defending counsels, in the exercise of their rights and powers recognised by law, may access the archive by personally depositing the request with the Registrar at least one day earlier, unless there are justified grounds of urgency.

7. In compliance with the law, Judges may determine special consultation procedures which, in each specific case, seem to be the most adequate to ensure the confidentiality of operations.

8. The provisions to extract a copy of the documents and material kept in the archive shall be indicated, as the case may be, by the Judge by means of a decision granting authorisation.

Art. 2

(Register of accesses to the restricted archive)

1. Accesses to the wiretapping archive and to the cabinets shall be recorded in apposite registers, one for each Investigating Judge.

2. The Register shall consist of sheets assembled and endorsed by the Head Magistrate before being used. They shall indicate, in a chronological order, the date, the initial and final time of consultation, the persons present, the details, if any, of the authorisation, a detailed indication of the acts, supporting material and documents kept in the archive which have been consulted and the number of the criminal case to which they refer.

3. The Registrar or the staff delegated by the Investigating Judge involved in the operations shall make the entries in the Register and they shall put their signature at the end thereof, together with those present. The delegated person shall indicate the details of the power of attorney in the Register.

4. The Register shall be kept in the reinforced security cabinet assigned to the Investigating Judge who has ordered the wiretapping operations.

Art. 3

(Keeping of documents)

1. The material and documents which shall be deposited in the restricted archive pursuant to law shall be kept in the reinforced security cabinets in the ways and forms specified in Article 14, paragraph 4 of Law no. 98 of 21 July 2009. Containers shall be equipped with a safety lock. The Court's seal, as well as the signature of the Investigating Judge before whom the proceeding is pending and that of the Registrar shall be put on the closing side of the containers.

1. The opening of the containers shall be authorised in writing by the Judge. An apposite verbatim record of the operations shall be drawn up. It shall indicate the date, the time of opening, the details and reasons contained in the decision granting authorisation, as well as whether the container is entire and the time at which the container is closed again. The verbatim record shall be signed by all people present and be kept in the restricted archive, together with the container to which it refers.

Art. 4

(Wiretapping Register)

1. The Wiretapping Register shall be kept directly by each Investigating Judge and under his/her responsibility. It shall be kept strictly restricted: non-one shall have access to it, except for those persons indicated by law while performing their duties and tasks.

2. The Register shall consist of sheets assembled and endorsed by the Head Magistrate before being used.

3. The entries shall be made in a chronological order. The content of the Register shall be specified by the law and entries shall be made directly by the Investigating Judge, who puts his/her

signature thereon. The Investigating Judge shall submit the entries made to the Judge responsible for Wiretapping, who shall endorse them pursuant to Article 4, paragraph 7 of Law no. 98 of 21 July 2009.

Art. 5

(Final provisions)

1. The Registrar shall be required to establish the wiretapping registers and the registers of accesses to the restricted archive in compliance with the law and this regulation, in agreement with the Investigating Judges.

2. The registers shall be delivered to the Investigating Judges by 31 December 2009.

Done at Our Residence, on 29 December 2009/1709 since the Foundation of the Republic

THE CAPTAINS REGENT
Francesco Mussoni- Stefano Palmieri

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta