



# REPUBLIC OF SAN MARINO

The Italian text shall be legally binding

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

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

*Promulgate and order the publication of the following ordinary law approved by the Great and General Council during its sitting of 21 July 2010:*

### **LAW NO. 128 OF 23 JULY 2010**

#### **AMENDMENTS TO LAW NO. 104 OF 30 JULY 2009 (LAW ON INTERNATIONAL LETTERS ROGATORY RELATING TO CRIMINAL MATTERS)**

##### **Art. 1**

Sub-paragraph 4), paragraph 3 of Article 8 of Law no. 104 of 30 July 2009 shall be amended as follows:

“4) if the request concerns an offence considered a political offence or an offence connected with a political offence under San Marino Law. In no case shall the offences of association for the purposes of terrorism, terrorist financing and the offences committed for the purpose of terrorism or subversion of the constitutional order be deemed political crimes;”

##### **Art. 2**

Sub-paragraph 6), paragraph 3 of Article 8 of Law no. 104 of 30 July 2009 shall be amended as follows:

“6) if the letter rogatory concerning search or seizure of property is submitted on the basis of offences that are not punishable under both the law of the requesting State and the law of the Republic of San Marino, or if the request is not consistent with the law of San Marino, unless the fact against which the foreign Judicial Authority takes action is connected with offences for the purposes of terrorism, terrorist financing, as well as with offences committed for the purpose of terrorism or subversion of the constitutional order;”.

### **Art. 3**

Paragraph 2 of Article 13 of Law no. 104 of 30 July 2009 shall be repealed.

### **Art. 4**

Article 16 of Law no. 104 of 30 July 2009 shall be amended as follows:

*“(Participation of the requesting State)”*

1. On the express request of the requesting State, the Law Commissioner may authorise the requesting Authority to be present at the execution of the letters rogatory. In any event, the Law Commissioner shall state the date and place of execution of the letters rogatory.”.

### **Art. 5**

The third paragraph of Article 30 of Law no. 104 of 30 July 2009 shall be amended as follows:

“3. The *Procuratore del Fisco* and the parties concerned, through a Lawyer qualified to perform the legal profession in the Republic of San Marino at whom they have to elect legal domicile, may make a written complaint against the orders of exequatur setting forth coercive measures against people and/or property, on grounds of legality and substance, to the Judge of Appeal within 10 days from receipt of service of the order of exequatur.”.

### **Art. 6**

Paragraph 4 of Article 30 of Law no. 104 of 30 July 2009 shall be amended as follows:

“4. The lodging of an appeal referred to in the preceding paragraphs shall be a ground to suspend the transmission of the documents relating to the execution of a letter rogatory to a foreign Authority.”.

### **Art. 7**

Paragraph 5 of Article 30 of Law no. 104 of 30 July 2009 shall be amended as follows:

“5. The *Procuratore del Fisco* and the parties concerned that have made the complaint referred to in paragraph 3 of this Article shall be entitled, within 10 days following the lodging of the complaint, to examine the request for legal assistance or the parts thereof that are not expressly confidential. Upon expiry of the aforesaid period, the Law Commissioner shall send the case file to the Judge of Appeal.”.

### **Art. 8**

The title of Article 32 shall be amended as follows:

“Art. 32

*(Procedure before the Judge of Third Instance in criminal matters pursuant to Articles 29 and 30, paragraph 2 of this Law).”.*

**Art. 9**

Article 33 of Law no. 104 of 30 July 2009 shall be repealed.

**Art. 10**

Article 35 of Law no. 104 of 30 July 2009 shall be amended as follows:

*“(Limits of use of the acts performed by a foreign State)”*

1. Without prejudice to the law provisions in force on the validity and usability of acts, the usage of acts of legal assistance requested and performed abroad in violation of the conditions and limits, if any, established by a foreign State shall be prohibited.
2. All time limits for any complaints subsequent to seizures carried out in secrecy regime abroad shall be suspended and they shall start to run from the moment the termination of the secrecy regime is notified to the parties.
3. The parties involved and the *Procuratore del Fisco* may lodge to the Judge of Appeal in Criminal Matters a written complaint against the order for formal collection of evidence establishing coercive measures, on grounds provided for by domestic law. Said complaint shall be made within ten days of receipt of service of the order, when the phase conducted in secrecy regime, if any, is terminated. Appeals, if any, shall be regulated by ordinary procedural rules.

**Art. 11**

1. The provisions of this Law shall be implemented with respect to the orders of exequatur issued after the entry into force of this Law.

**Art. 12**

1. This Law shall enter into force on the 15<sup>th</sup> day following that of its legal publication.

*Done at Our Residence, on 23 July 2010/1709 since the Foundation of the Republic*

THE CAPTAINS REGENT  
*Marco Conti – Glauco Sansovini*

THE SECRETARY OF STATE  
FOR INTERNAL AFFAIRS  
*Valeria Ciavatta*