

## DECREE LAW

**DECREE-LAW no. 197 of 30 December 2015**

### **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 strengthen the integrity and soundness of San Marino economic and financial system, as well as the Republic's international cooperation in the fight against money laundering and terrorist financing and in the protection of national and international security;*
- *the urgency to immediately enforce the provisions useful to this end and to align national legislation, also in the light of the need to rapidly comply with the most recent international standards;*

*Having regard to Congress of State Decision no.1, adopted during its sitting of 28 December 2015;*

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

*Hereby promulgate and order the publication of the text of Decree Law no. 197 of 30 December 2015,*

### **URGENT PROVISIONS AMENDING THE LEGISLATION ON THE PREVENTION AND COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING**

#### **AMENDMENTS TO LAW NO. 92 OF 17 JUNE 2008 AND SUBSEQUENT AMENDMENTS**

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

Article 46, paragraph 4 of Law no. 92 of 17 June 2008 shall be amended as follows:

"4. Where a resolution of the United Nations Security Council or a decision of one of its Committees provides for the adoption, amendment or repeal or, more generally, for updates to the restrictive measures, it shall be implemented in the Republic of San Marino as follows:

- a. by the Congress of State by means of a decision; and
- b. automatically through publication of the updates in the relevant section of the website of the Secretariat of State for Foreign Affairs, in the case of decisions concerning updates to the lists referred to in preceding paragraph 1, lett. a) which have already been transposed by a decision of the Congress of State.

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

Article 46, paragraph 6 of Law no. 92 of 17 June 2008 shall be amended as follows:

"6. The decisions of the Congress of State and the updates referred to in paragraph 4, lett. b) shall be sent to the Agency which shall forward them to the Judicial Authority, the Administrations referred to in Article 48 and the obliged parties as mentioned in Article 17.

##### **Art. 3**

Article 47, paragraph 3 of Law no. 92 of 17 June 2008 shall be amended as follows:

"3. Freezing shall become effective on the date of adoption of the Congress of State decision transposing the United Nations Security Council Resolution or on the date of publication in the relevant section of the website of the Secretariat of State for Foreign Affairs, in the case of updates made by the Security Council or one of its Committees as mentioned in Art. 46, paragraph 4, letter. b. Updates shall be published on the website within one working day from the date of receipt of the notice sent by the Security Council or one of its Committees."

##### **Art. 4**

Article 47ter, paragraphs 1 and 2 of Law no. 92 of 17 June 2008 as introduced by Article 21 of Decree-Law n. 98 of 25 July 2013, shall be amended as follows:

- “1. In the circumstances set out in Article 45 bis, paragraph 1, letter b):
- a) the freezing referred to in Article 46 may be revoked at any time by the Congress of State by means of a specific decision, upon request of at least one member of the Credit and Savings Committee or at the request of any party declaring to be affected by it, when reasonable grounds no longer exist to believe that the persons, groups and entities affected by this measure may commit or attempt to commit or participate in or facilitate to commit the acts referred to in Article 1, paragraph 1, letters k) and p);
  - b) the freezing referred to in Article 46 shall automatically be reviewed every 60 days and shall be revoked when reasonable grounds no longer exist to believe that the persons, groups and entities affected by this measure may commit or attempt to commit or participate in or facilitate to commit the acts referred to in Article 1, letters k) and p).
2. At the request of anyone affected by the freezing referred to in Article 46, the Credit and Savings Committee may:
- a) provide the applicant with the funds necessary to cover basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
  - b) provide the applicant with the funds necessary exclusively for payment of reasonable fees and reimbursement of incurred expenses associated with the provision of legal services;
  - c) provide the applicant with the funds necessary exclusively for payment of charges for the maintenance of frozen assets.”.

#### **Art. 5**

Article 48, paragraph 3, letter a) of Law no. 92 of 17 June 2008 shall be amended as follows:

“3. The obliged parties referred to in Article 17 shall:

- a) inform the Agency of the measures applied in accordance with this law, specifying the parties involved, the amount and nature of the funds or economic resources, within 1 working day from the adoption of the Congress of State decision, or from the publication referred to in Article 46, paragraph 4, letter b) or from the date of possession of the funds or economic resources”.

#### **Art. 6**

Article 50, paragraph 1 of Law no. 92 of 17 June 2008 shall be amended as follows:

“1. The party concerned can lodge personally or through a lawyer, an appeal against the restrictive measures ordered by the Congress of State decision or by the means referred to in Article 46, paragraph 4, lett. b) and against the provisions adopted by the Credit and Savings Committee. A judicial review shall be allowed against the same measures.”.

#### **Art. 7**

Article 57, paragraph 2 of Law no. 92 of 17 June 2008 shall be amended as follows:

“2. The same punishment shall be applied to anyone not complying with the restrictive measures adopted under Article 46”.

#### **Art. 8**

Article 60 of Law no. 92 of 17 June 2008 shall be amended as follows:

#### **“Art. 60** *(Circumvention of freezing measures)*

“Anyone performing acts aimed at circumventing the freezing measures referred to in Article 46, shall be punished by third-degree imprisonment, daily fine and disqualification. Moreover, a pecuniary administrative sanction up to double of the value of the funds or economic resources subject to freezing shall be applied”.

*Done at Our Residence, on 30 December 2015/1714 since the Foundation of the Republic.*

THE CAPTAINS REGENT  
*Lorella Stefanelli - Nicola Renzi*

THE SECRETARY OF STATE  
FOR INTERNAL AFFAIRS  
*Gian Carlo Venturini*