



REPUBLIC OF SAN MARINO

DECREE-LAW no. 154 of 22 September 2020

(Ratifying Decree -Law no. 148 of 10 September 2020)

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

Having regard to Decree-Law no. 148 of 10 September 2020 - Provisions on combating terrorism - Amendments to the Criminal Code - promulgated:

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 comply with the legal obligations to which the Republic of San Marino is subject under the international law on terrorism and to implement UN Resolution 2178(2014), as an integral part of the FATF methodology and therefore a benchmark also for Moneyval;*
- *the urgent need to introduce not only new offences related to terrorist financing but also to the financing of terrorist organisations and individual terrorists for the success of the Moneyval's evaluation visit;*

Having regard to Congress of State Decision no. 2, adopted during its sitting of 31 August 2020;

Having regard to the amendments to the above-mentioned decree, which were introduced at the time of its ratification by the Great and General Council in its sitting of 18 September 2020;

Having regard to Decision no. 7 adopted by the Great and General Council on 18 September 2020;

Having regard to Article 5, paragraph 2 of Constitutional Law no. 185/2005 and to Article 9, paragraph 5, and Article 10, paragraph 2 of Qualified Law no. 186/2005, as well as to Article 33, paragraph 6 of Qualified Law no. 3/2018;

Hereby promulgate and order the publication of the final text of Decree-Law no. 148 of 10 September 2020, as amended following the approval of the Great and General Council when ratifying it:

PROVISIONS ON COMBATING TERRORISM - AMENDMENTS TO THE CRIMINAL CODE

Art. 1

1. In Title Four of Book Two of the Criminal Code, after Article 340, the following Chapter i-bis is included:

“Chapter I-bis -
TERRORIST OFFENCES

Art. 340-bis
(*Terrorist purposes*)

Terrorist purposes shall include any act which, by its nature or context, may seriously damage a country or an international organisation, when such act is carried out for one or more of the following purposes:

- 1) To intimidate a population;
- 2) To compel a Government or an international organisation to do or to abstain from doing any act;
- 3) To destabilise or destroy the political, constitutional, economic and social structures of a country or an international organisation.

Art. 340-ter
(*Terrorist Offences*)

The following acts shall be considered terrorist offences, when they are deemed to be offences under the San Marino legal system and are committed for terrorist purposes:

- 1) Attacks upon a person's life which may cause death;
- 2) Attacks upon the physical integrity of a person;
- 3) Kidnapping or hostage taking;
- 4) Causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;
- 5) Seizure of aircraft, ships or other means of public or goods transport;
- 6) Manufacture, possession, acquisition, transport, supply or use of explosives or firearms, including chemical, biological, radiological or nuclear weapons, as well as research into, and development of, chemical, biological radiological or nuclear weapons;
- 7) Release of dangerous substances, or causing fires, floods or explosions, the effect of which is to endanger human life;
- 8) Interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;
- 9) Serious hindering or interruption of the functioning of an information system by inputting, transmitting, damaging, deleting, deteriorating, altering, suppressing or rendering inaccessible computer data; 10) Threatening to commit any of the acts listed in 1) to 9).

Terrorist offences shall also include all acts defined as such under the International Conventions ratified by the Republic of San Marino and the International Agreements to which San Marino is a party and when such acts are considered offences under San Marino legal system.

Art. 340-quater
(*Attack for terrorist purposes*)

Anyone who, for terrorist purposes, makes an attack upon a person's life or safety, shall be punished, in the first case, with seventh-degree imprisonment and fourth-degree disqualification from public offices and political rights and, in the second case, with fourth-degree imprisonment and third-degree disqualification from public offices and political rights.

If an attack upon the safety of a person causes injury with the characteristics described in Article 156, sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights shall apply.

If the facts provided for in the preceding paragraphs are committed against persons performing functions in the judicial or prison system or public security functions in the exercise of or due to their functions, the punishments shall be increased by one degree.

If the facts mentioned in the preceding paragraphs cause the death of that person, in the case of attacks upon life, eighth-degree imprisonment and fourth-degree disqualification from public offices and political rights shall apply, while in the case of attacks upon safety, seventh-degree imprisonment and fourth-degree disqualification from public offices and political rights shall apply.

Mitigating circumstances, other than those envisaged in Articles 90, paragraph 3, and 75, paragraph 2, which are concurrent with the aggravating circumstances referred to in the preceding paragraphs, may not be considered as equivalent or prevailing with respect to these and any reduction in punishment shall apply to the total punishment resulting from the increase due to said aggravating circumstances.

Art. 340-quinquies
(Terrorist act with deadly or explosive devices)

Unless the fact constitutes a more serious offence, anyone who, for terrorist purposes, commits any act intended to damage the movable or immovable property of others, by using explosive or otherwise deadly devices, shall be punished with third-degree imprisonment and second-degree disqualification from public offices and political rights.

For the purposes of this Article, explosive or otherwise deadly devices shall be defined as weapons and similar materials indicated in Article 251 and capable of causing substantial material damage.

If the fact is committed against institutional premises, the punishments shall be increased by one degree.

If the fact endangers public safety or causes a damage to the national economy, the punishments shall be increased by one degree.

Mitigating circumstances, other than those envisaged in Articles 90, paragraph 3, and 75, paragraph 2, which are concurrent with the aggravating circumstances referred to in paragraphs 3 and 4, may not be considered as equivalent or prevailing with respect to these and any reduction in punishment shall apply to the total punishment resulting from the increase due to said aggravating circumstances.

Art. 340-sexies
(Act of nuclear terrorism)

Sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights shall apply to anyone who, for terrorist purposes:

- 1) Possesses or makes available to others radioactive material;
- 2) Makes or is otherwise in possession of a nuclear device.

Seventh-degree imprisonment and fourth-degree disqualification from public offices and political rights shall apply to anyone who, for terrorist purposes:

- 1) Uses radioactive material or a nuclear device;
- 2) Uses or damages a nuclear facility in a manner which releases or risks the release of radioactive material.

The punishments referred to in paragraphs 1 and 2 shall also apply when the conduct described therein involves chemical or bacteriological material or aggressive agents.

Art. 340-septies
(Kidnapping for terrorist purposes)

Anyone kidnapping a person for terrorist purposes shall be punished with eighth-degree imprisonment and fourth-degree disqualification from public offices and political rights.

If, however, the kidnapping results in the death of the kidnapped person as an unintentional consequence, the punishments shall be increased by one degree.

An accomplice who, by dissociating himself from the others, seeks to allow the kidnapped person to regain his freedom, shall be punished with third-degree imprisonment and second-degree disqualification from public offices and political rights. If the kidnapped person, once released, dies as a consequence of the kidnapping, the accomplice shall be applied fifth-degree imprisonment and fourth-degree disqualification from public offices and political rights.

Art. 340-octies
(Association for the commission of terrorist offences)

Anyone promoting, establishing, organising or directing associations whose objective is to commit terrorist offences or terrorist acts shall be punished with sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights.

Anyone participating in such associations shall be punished with fourth-degree imprisonment and third-degree disqualification from public offices and political rights.

Art. 340-novies
(Assistance to members of criminal associations)

Except for cases of participation and aiding and abetting, anyone providing assistance or aid to any member of the associations referred to in Art. 340-octies shall be punished with second-degree imprisonment and disqualification from public offices and political rights.

The punishments shall be increased by one degree if the assistance is provided on a continuous basis. The person committing such fact in favour of a close relative shall not be punishable.

Art. 340-decies
(Terrorist financing)

Anyone who, by any means, directly or indirectly, receives, collects, holds, deposits, conceals, keeps, disburses, disposes of or transfers funds, assets or other economic resources knowing that they are intended to be used, in whole or in part, to commit one or more terrorist offences or terrorist acts, or to economically support terrorists or terrorist groups, or to provide them with a financial service or related services, shall be punished with sixth-degree imprisonment and fourth-degree disqualification from public offices and political rights.

Art. 340-undecies
(Recruitment for the commission of terrorist offences)

Except for the cases referred to in Article 340-octies, anyone who recruits one or more persons in order to perpetrate one or more terrorist offences shall be punished with fourth-degree imprisonment and third-degree disqualification from public offices and political rights.

Except for the cases referred to in Article 340-octies, the recruited person shall be punished with third-degree imprisonment and second-degree disqualification from public offices and political rights.

Art. 340-duodecies
(Training for the commission of terrorist offences)

Except for the cases referred to in Art. 340-octies, anyone who provides training or otherwise instructions on the preparation or use of explosive materials, firearms or other weapons, harmful or hazardous chemical or bacteriological substances, as well as any other technique or method for the perpetration of terrorist offences shall be punished with fifth-degree imprisonment and fourth-degree disqualification from public offices and political rights.

The person receiving training shall be punished with fourth-degree imprisonment and third-degree disqualification from public offices and political rights.

The same punishment shall also apply to the person receiving training, as well as to anyone who, having acquired, even independently, the instructions referred to in the first paragraph, engages in conducts unequivocally aimed at perpetrating terrorist offences.

Art. 340-terdecies
(Organisation of travels for the perpetration of terrorist offences)

Except for the cases referred to in Article 340-octies, anyone travelling abroad from the territory of the Republic in order to perpetrate one or more terrorist offences shall be punished with third-degree imprisonment and second-degree disqualification from public offices and political rights.

Except for the cases referred to in Article 340-octies, the same punishment shall apply to anyone who, after travelling to San Marino from a foreign country, engages in conducts unequivocally aimed at perpetrating terrorist offences.

Except for the cases referred to in Article 340-octies, anyone who organises, finances, promotes or otherwise facilitates one or more travels referred to in the previous paragraphs by third parties, shall be punished with fourth-degree imprisonment and third-degree disqualification from public offices and political rights.

Art. 340-quaterdecies
(Aggravating and mitigating circumstances)

With regard to offences perpetrated for terrorist purposes, the punishment shall be increased by one degree, unless the circumstance constitutes the offence.

Mitigating circumstances, other than those envisaged in Articles 90, paragraph 3, and 75, paragraph 2, which are concurrent with the aggravating circumstance referred to in paragraph 1, may not be considered as equivalent or prevailing with respect to this and any reduction in punishment shall apply to the total punishment resulting from the increase due to said aggravating circumstance.

With regard to the offences perpetrated for terrorist purposes, with the exception of the provisions of Article 340-septies, the punishments applied to an accomplice who, by dissociating himself from the others, seeks to prevent the criminal activity from having further consequences, or concretely assists police or judicial authorities in collecting evidence which is fundamental for the identification or apprehension of the accomplices, shall be reduced by one degree.

When the circumstance referred to in the third paragraph occurs, the aggravating circumstance referred to in the first paragraph shall not apply.”

Art. 2

1. Article 6, paragraph 1 of the Criminal Code is amended as follows:

Anyone committing, outside the territory of the State, one of the criminal offences referred to in Articles 170, 185, 196, 204-bis, 204-ter, 284, 285, 305, 305-bis, 324, 325, 326, 328, 329, 331, 332, 333, 334, 337, 337-quater, 337-quinquies, 338, 339, 341, 342,

343, 344, 346, 347, 371, 372, 373, 374, 374-*bis*, 374-*ter*, 375, 376, 377, 378, 379, 380, 400, 401, 401-*bis*, 403, 403-*bis*, 403-*ter*, 403-*quater*, 405 and, in any case, all offences perpetrated for terrorist purposes, shall be subject to the provisions of this Criminal Code.”.

Art. 3

1. Paragraph 10 of Article 147 of the Criminal Code, as last amended by Art. 3 of Law no. 100 of 29 July 2013, is amended as follows:

“In case of conviction for the offences referred to in Articles 150, 158, 167, 168, 168-*bis*, 169, 177-*bis*, 177-*ter*, 194, paragraph 3, 195, 195-*bis*, 195-*ter*, 196, 199, 199-*bis*, 199-*ter*, 204, paragraph 3, number 1, 204-*bis*, 204-*ter*, 207, 212, 237, 239, 241, 242, 246, 251, 252-*ter*, 287-*bis*, 287-*ter*, 295, 296, 297, 298, 299, 300, 305-*bis*, 308, 309, 337-*quater*, 337-*quinquies*, 1, 372, 373, 374, paragraph 1, 374-*ter*, paragraph 1, 401, 401-*bis*, 403, 403-*bis*, the offences perpetrated for terrorist purposes, the criminal offence referred to in Article 1 of Law no. 139 of 26 November 1997 and the criminal offence referred to in Article 2 of Law no. 99 of 7 June 2010, the judge shall order the confiscation of money, property or other benefits available to the convicted person, of which the offender is not able to demonstrate the lawful origin”.

Art. 4

1. In Article 289 of the Criminal Code, the following paragraph is added after paragraph 3:

“The punishments referred to in the preceding paragraphs shall be increased by one degree if instigation or incitement concerns terrorist criminal offences.”.

Art. 5

1. Article 90, paragraph 1, point 4) of the Criminal Code is repealed.

Art. 6

1. Knowledge, intent or purpose of the perpetrator of terrorist offences shall be inferred from objective factual circumstances.

Art. 7

1. For the purposes of applying the rules preventing and combating terrorist offences, the definitions contained in Article 1 of Law no. 92 of 17 June 2008 and subsequent amendments shall apply.

Art. 8

1. Articles 337-*bis* and 337-*ter* of the Criminal Code are repealed.

Art. 9

1. Among the expenditure items pertaining to the Department of Institutional Affairs and Justice, a Fund for financial assistance to victims of terrorist acts shall be established in the State budget and shall be allocated promptly in case of need.

The Fund may be accessed by victims of terrorist acts, perpetrated or attempted on the territory of the Republic and finally established by the Judicial Authority.

Art. 10

1. In all provisions in force, reference to Article 337-bis of the Criminal Code shall be understood as referring to Article 340-octies of the Criminal Code, while reference to Article 337-ter of the Criminal Code shall be understood as referring to Article 340-decies of the Criminal Code.

Done at Our Residence, on 22 September 2020/1720 since the Foundation of the Republic

THE CAPTAINS REGENT
Alessandro Mancini – Grazia Zafferani

THE MINISTER OF
INTERNAL AFFAIRS
Elena Tonnini

