

Law N. IX: Amendments to the Criminal Code and the Code of Criminal Procedure

(11 July 2013)

THE PONTIFICAL COMMISSION FOR THE VATICAN CITY STATE

- bearing in mind the *Fundamental Law of the Vatican City State* of 26 November 2000;
- bearing in mind the *Act on Sources of Law* of 1 October 2008, N. LXXI;
- bearing in mind the *Decree of the President of the Governorate* of 25 January 2012, N. CLIX, promulgating amendments and additions to Law of 30 December 2010, N. CXXVII, on the Prevention and Countering of the Laundering of the Proceeds of Criminal Activities and the Financing of Terrorism, confirmed by Law of 24 April 2012, N. CLXVI;

considering that

- pursuant to articles 7 and 8 of the *Act on the sources of Law* of 1 October 2008, N. LXXI, the Italian Criminal Code and the Italian Code of Criminal Procedure received into the Vatican legal system by the Law of 7 June 1929, n. II, are currently in force in the Vatican City State;
- the time elapsed makes necessary the modernization of some provisions in order to render more effective the contrast of various criminal activities, including those having transnational connotations;
- over the years, the Holy See, acting also in the name and on behalf of the Vatican City State, has ratified various international conventions that require the suppression of certain criminal activities and the adoption of enhanced measures on international cooperation;

has promulgated the following

LAW

Chapter I Amendments to the Criminal Code

Article 1 (Offences committed in the territory of the State)

The text of **article 3** of the Criminal Code is entirely replaced by the following:

"Whoever commits an offence in the territory of the State is punished according to the Vatican law.

An offence is deemed to be committed in the territory of the State when its constituting action or omission is carried out, as a whole or in part, in the territory, or if the consequence resulting from that action or omission takes place in the territory.

The offence committed on board a vessel that is flying the flag of the State or on an official aircraft, or on an aircraft that is registered under the laws of the State at the time that the offence is committed, is also deemed to be committed in the territory of the State."

Article 2 (Offences committed abroad)

The text of **article 4** of the Criminal Code is entirely replaced by the following:

"Whoever commits abroad one of the following offences:

a) offences against the security of the State;

b) offences of counterfeiting the seal of the State and the use of a counterfeited seal;

c) offences of counterfeiting currency, revenue stamps and Vatican public bonds;

d) offences committed by public officials in the service of the State, taking advantage of their powers or violating the duties inherent to their functions;

f) any other offence for which the laws or the ratified international conventions require the application of the Vatican law;

is punished according to Vatican law.

Whoever has committed an offence abroad whose prosecution is required by a ratified international agreement, is punished according to Vatican law if he is found in the territory of the State and is not extradited."

Article 3 (Offences committed by a citizen abroad)

The text of **article 5** of the Criminal Code is entirely replaced by the following:

"Outside the cases set forth in the previous paragraph, the citizen who commits abroad an offence for which Vatican law sets forth a penalty of no less than three years of imprisonment is punished according to the same law, if found in the territory of the State.

For the purposes of the present article, a stateless person who has his habitual residence in the State is assimilated to the citizen."

Article 4
(Offences committed abroad against the State or the citizens)

The text of **article 6** of the Criminal Code is entirely replaced by the following:

"Outside the cases set forth in the preceding articles, the foreigner who commits abroad an offence against the State or a citizen for which the Vatican law sets forth a penalty of no less than three years imprisonment is punished according to the same law, upon request of the Secretariat of State.

When a citizen is the victim of the offence, a private complaint is also required to proceed.

In these cases, as well as in those cases foreseen in article 4, paragraph 2, and article 5, the penalty is reduced by a third."

Article 5
(Concurrent jurisdiction)

The text of **article 8** of the Criminal Code is entirely replaced by the following:

"In the cases foreseen in the preceding articles, when the citizen or the foreign national has been judged abroad, the prosecution for the same facts shall not proceed except upon request of the Secretariat of State.

When the foreign trial is renewed in the State, the penalty served abroad shall be taken into account, considering its nature and applying, where necessary, the provisions of article 40."

Article 6
(Extradition)

At the end of **article 9** of the Criminal Code the following two paragraphs are added:

"The extradition is denied if there are substantial grounds to believe that:

a) the extradition request has been made for the purpose of prosecuting, punishing or harming a person on account of that person's race, religion, nationality, ethnic origin or political opinion;

b) the person requested would be in danger of being subjected to torture or to the death penalty in the requesting State;

c) it is contrary to the fundamental interests the State or of the Holy See.

To determine whether the grounds for denying extradition referred to in letters a) and b) of the preceding paragraph exist, all relevant considerations are taken into account, including the existence in the requesting State of a pattern of systematic, gross, long-lasting or mass violations of human rights."

Article 7 **(On the maximum penalty imprisonment)**

In **article 13, paragraph 1**, of the Criminal Code, the words "from three days to twenty-four years" are replaced by the following: "from three days to thirty-five years."

Article 8 **(Confiscation and freezing)**

The text of **article 36** of the Criminal Code is entirely replaced by the following:

"In case of a guilty verdict, the judge orders the confiscation of the goods used or intended to commit the offence, as well as the proceeds, profits, their value and other benefits that arise from their use.

The confiscation of the goods whose manufacture, use, transport, possession or sale constitutes an offence is always mandatory, even in the absence of a guilty verdict.

If the goods mentioned in paragraph 1 belong to a bona fides third party, their confiscation shall not be ordered.

Regarding the goods referred to in paragraph 2, their confiscation shall not be ordered if they belong to a bona fides third party and if their manufacture, use, transport, possession or sale may be approved through an administrative authorization.

The goods owned, possessed or administered, directly or indirectly, by criminal associations, beyond those goods referred to in paragraph 1, are always confiscated, without prejudice to the bona fides rights of third parties.

The preceding provisions apply to the goods that result from the transformation, conversion or intermingling of the goods subject to confiscation, as well as to the profits and other benefits that arise from their use.

Whenever it is not possible to confiscate the goods referred to in preceding paragraphs, the judge orders the confiscation of currency, goods or assets of an equivalent value among those owned or possessed, directly or indirectly, exclusively or jointly with others, by the convicted person, without prejudice to the bona fide rights of third parties.

The judge shall adopt precautionary measures, including the seizure of the money, goods or assets likely to be confiscated, to prevent their sale, transfer or disposal, as well as other measures that permit identifying, tracing, and freezing the money, goods or assets likely to be confiscated, without prejudice to the bona fide rights of third parties.

"freezing" means:

a) regarding goods, the prohibition to move, transfer, convert, dispose, use, manage, or access those goods so as to modify their volume, amount, location, ownership, possession, nature, destiny, as well as of any other change that would allow their use, including the management of an investment portfolio;

b) regarding other assets, the prohibition to move, transfer, convert, use or manage those assets, including their sale, attachment to or constitution of any other rights or warranties over them in order to obtain goods or services.

Unless otherwise provided by the law, the confiscated goods are acquired by the Patrimony of the Holy See."

Article 9 (Protection of bona fides third parties)

In Book I of the Criminal Code, "On the Penalties," Chapter II, "On the Penalties in General," after article 36, the following **article 36 bis** is added:

«When ordering the confiscation of goods, the judge declares void any deed or contract concerning the confiscated goods when it emerges that the third party knew or should have known that the goods that are the object of the said deed or contract fall within the scope of paragraphs 1, 2, 5 and 6 of article 36.

The action for annulment is brought forth by the Promoter of Justice, and the trial is governed by the rules applicable to civil actions in criminal proceedings.

Bona fides third parties entitled to the restitution of seized goods or of goods subject to other precautionary measures, may intervene in the proceedings and request their restitution.

Bona fides third parties entitled to the restitution of confiscated goods may bring forward civil proceedings to secure their rights as well as the ensuing restitution of those goods or, if restitution is not possible, compensation for any damages.»

Article 10 **(Disclosure of information or documents)**

The following **article 116 bis** is added to Book II "Crimes in Particular", Title I "Crimes against the Security of the State", Chapter I "Crimes against the State" of the Criminal Code, following article 116:

"Whoever illicitly obtains or reveals information or documents whose disclosure is forbidden, is punished with six months to two years imprisonment or with a fine ranging

from 1,000 to 5,000 euro.

If the object of the offence consists of information or documents concerning the fundamental interests or the diplomatic relations of the Holy See or the State, the penalty shall be of four to eight years imprisonment.

If the conduct referred to in the preceding paragraph is committed due to criminal negligence, the penalty shall be of six months to two years imprisonment."

Article 11 **(Enslavement)**

The text of **article 145** of the Criminal Code is entirely replaced by the following:

"Whoever exercises the powers attaching to the right of ownership over a person, or who subjects or keeps a person in a state of continuous submission, forcing that person to work, to provide sexual services, to beg or to provide any other compensation that constitutes exploitation, is punished with eight to twenty years imprisonment.

For the purposes of this article, the subjection or retention of a person in a state of submission is deemed to occur when it is committed through violence, threat, deception, abuse of power, or by abusing a situation of physical or mental vulnerability or need, or through the offer or conferral of money or other benefits to whoever has control over the person."

Article 12 (Kidnapping)

The text of **article 146** of the Criminal Code is entirely replaced by the following:

"Whoever deprives another person of his personal freedom is punished with one to five years imprisonment and with a fine of up to 10,000 euro.

If the guilty person seizes or in any way detains and threatens to kill, to injure or to continue to detain another person in order to compel a third party to do or abstain from doing any act as an explicit or implicit condition for his release, is punished with four to ten years imprisonment and with a fine ranging from 5,000 to 15,000 euro.

If the offence is committed against one's ascendant, descendant or spouse; against a public official in view to his public functions; or if, as a consequence of the fact, the victim suffers serious injury to his person, health, or goods; or if the offence is committed for profit; the penalty is of five to twelve years imprisonment and with a fine of no less than 15,000 euro.

If the offence is committed against two or more persons, the penalty is increased from one third to a half.

The punishment is reduced between a sixth and a half if the guilty person spontaneously releases the person retained, before any act of prosecution, without having obtained any benefit, and without having caused that person any physical injury."

Article 13 (Embezzlement)

The text of **article 168** of the Criminal Code is entirely replaced by the following:

"Unless it constitutes a more serious defence, the public official, the foreign public official, or the official of a public international organization who subtracts, misappropriates or diverts, for his own benefit or for the benefit of another, any property, public or private funds or assets, or any other thing of value entrusted to him by virtue of his functions, is

punished with three to five years imprisonment, with a perpetual interdiction from public office, and with a fine of no less than 5,000 euro.

If the damages are minor, or if the subtracted goods are entirely returned before the opening of the trial, the interdiction from public office shall be temporary and the incarceration shall be of one to three years."

Article 14 (Extortion)

The text of **article 169, paragraph 1**, of the Criminal Code is replaced by the following:

"The public official, the foreign public official, or the official of a public international organization who, abusing of his position or powers, or through the performance or the failure to perform an act appertaining to his functions, in violation of the laws, compels someone to give or promise an undue advantage for himself or for another, is punished with four to seven years imprisonment, with a perpetual interdiction from public office, and with a fine of no less than 20,000 euro."

Article 15 (Improper induction)

1. The text of **article 170, paragraph 1**, of the Criminal Code is replaced by the following:

"The public official, the foreign public official, or the official of a public international organization who, abusing of his position or powers, or through the performance or the failure to perform an act appertaining to his functions, in violation of the laws, induces someone to give or promise an undue advantage for himself or for another, is punished with one to four years imprisonment, with a temporary interdiction from public office, and with a fine of no less than 15,000 euro."

2. In the text of **article 170, paragraph 2**, of the Criminal Code, is entirely replaced by the following:

"The penalty is of six months to three years imprisonment if the public official, the foreign public official, or the official of a public international organization receives an undue advantage by merely taking advantage of another person's error."

Article 16 (Corruption in the exercise of a public function)

The text of **article 171** of the Criminal Code is entirely replaced by the following:

"The public official, the foreign public official, or the official of a public international organization who solicits or accepts, directly or indirectly, of an undue advantage for himself or for another, or accepts its offer or promise, in order to perform or because he has performed an act appertaining to his functions, is punished with two to five years imprisonment, with a temporary interdiction from public office, and with a fine of no less than 5,000 euro."

Article 17
(Corruption by an act contrary to official duties)

The text of article 172, paragraph 1, of the Criminal Code is replaced by the following:

"The public official, the foreign public official, or the official of a public international organization who solicits or accepts, directly or indirectly, an undue advantage for the himself or for another, or who accepts its offer or promise, in order to omit or to delay, or because he has omitted or delayed, the performance of an act appertaining to his functions, or to perform or because he has performed an act contrary to his official duties, is punished with three to six years imprisonment, with a temporary interdiction from public office, and with a fine of no less than 10,000 euro."

Article 18
(Penalties in the case of bribery and instigation)

The text of **article 173** of the Criminal Code is entirely replaced by the following:

"The penalties set forth in articles 171 and 172 apply also to whoever promises, offers, obtains or gives to a public official, a foreign public official, or an official of a public international organization, directly or indirectly, any undue advantage for himself or for another, to perform or because he has performed an act appertaining to his functions, to omit or to delay, or because he has omitted or delayed, the performance of an act appertaining to his functions, or to perform or because he has performed an act contrary to his official duties.

If the public official, the foreign public official, or the official of a public international organization does not commit the offence, whoever has incited him to commit the crime is subject to the penalties established in this article, reduced by half."

Article 19
(Abuse of functions)

1. The text of **article 175** of the Criminal Code is replaced by the following:

"Unless it constitutes a more serious offence, the public official, the foreign public official, or the official of a public international organization who, abusing of his position or powers, performs or fails to perform an act in violation of the laws in order to obtain an undue advantage for himself or for another or to cause unjust harm to another, is punished with one to five years imprisonment, with a temporary interdiction from public office, and with a fine of no less than 5,000 euro.

The same penalty applies to the public official, the foreign public official, or the official of a public international organization who, in the exercise of his functions, incites someone to violate the laws or the provisions of the authorities"

Article 20 (Trading in influence)

The text of **article 204** of the Criminal Code is entirely replaced by the following:

"Unless it constitutes a more serious offence, the public official, the foreign public official, the official of a public international organization, and any other person who solicits or accepts, directly or indirectly, an undue advantage for himself or for another, in order to abuse of his real or supposed influence with a view to obtain an undue advantage from the public administration or from a public authority of the State or of the Holy See, is punished with one to five years imprisonment and with a fine of no less than 5,000 euro.

Unless it constitutes a more serious offence, the same penalty applies to whoever promises, offers, or gives to a public official or to any other person, directly or indirectly, an undue advantage in order that the said public official or person abuses of his real or supposed influence with a view to obtain, from the public administration or from a public authority of the State or of the Holy See , an undue advantage for himself or for another.

If the guilty person is a public official, a temporary interdiction from public office is added to the aforementioned penalties."

Article 21 (Definition of public official)

The text of article 207 of the Criminal Code is entirely replaced by the following:

"For the purposes of criminal law:

a) "public official" means:

i. any person holding a legislative, administrative or judicial office in the State, whether appointed or elected, permanent or temporary, paid or unpaid, irrespective of that person's seniority;

ii. any person who performs a public function, even for a public agency or public enterprise, or who provides a public service.

b) "foreign public official" means any person who, for the purposes of the domestic law of a foreign State, holds a legislative, administrative or judicial office in that State, whether appointed or elected; as well as any person exercising a public function for a foreign State, including for a public agency or public enterprise of a foreign State;

c) "official of a public international organization" means an international civil servant and any person who is authorized by such an organization to act on its behalf."

Article 22 **(Perverting the course of justice)**

The following **article 217 bis** is added to Book II "Crimes in Particular", Title IV "Crimes against the Administration of Justice", Chapter IV "False Testimony" of the Criminal Code:

"The provisions of the preceding articles apply also to whoever, in the course of a trial, artificially modifies the state of the setting or the situation of things or persons in order to deceive a judge during a judicial inspection or reconstruction, or an expert witness during an appraisal.

Unless it constitutes a more serious offence, the provisions of the preceding articles apply also to whoever falsely declares or testifies in sworn documents or in other legal instruments to be produced before the judicial authorities, with a view to deceive the judge who is assessing the evidence."

Article 23 **(Induction of false testimony)**

The following **article 221 bis** is added to Book II "Crimes in Particular", Title IV "Crimes against the Administration of Justice", Chapter IV "False Testimony" of the Criminal Code:

"Unless it constitutes a more serious offence, the penalties foreseen for the offences set forth in this Chapter apply also to whoever induces someone, through the promise of an undue advantage, to commit one of the offences set forth in this Chapter.

When the induction is achieved through the use of physical force, threats or intimidation, the penalty is of five to ten years imprisonment.

When the offence that has been instigated is not committed, the penalty for instigation is reduced by between a third and a half."

Article 24 (Obstruction of justice)

The following **article 221 ter** is added to Book II "Crimes in Particular", Title IV "Crimes against the Administration of Justice", Chapter IV "False Testimony" of the Criminal Code:

"Unless it constitutes a more serious offence, whoever uses physical force, threats or intimidation against a judicial or law enforcement public official with a view to interfere with his official duties, is punished with seven to twelve years imprisonment.

When the obstruction of justice does not occur, the penalty is reduce between a third and the half."

Article 25 (Criminal association)

The text of **article 248** of the Criminal Code is entirely replaced by the following:

"When two or more persons enter into a partnership to commit several crimes or to obtain unjust benefits by taking advantage of the intimidating potential that arises from the partnership, those who promote, constitute, organize or direct the criminal group are punished, just for that fact, with three to seven years imprisonment.

Whoever participates intentionally in an organized criminal group and whoever actively participates in its criminal activities or in other activities of the group, in the knowledge that his participation contributes to the achievement of the criminal aims of the group, is punished, by the mere fact of his participation, with one to five years imprisonment.

If the organized group intends to commit several offences that are punishable with a maximum penalty of no less than four years; the penalty, in the cases foreseen in paragraph 1, is of five to ten years

imprisonment, while, in the cases foreseen in paragraph 2, the penalty is of three to six years imprisonment.

Whoever organizes, directs, aids, abets, facilitates or counsels the commission of a crime involving an organized criminal group, is subject to the same penalties set forth in paragraph 2.

The partnership to commit a single crime that is punishable with a maximum penalty of no less than four years, is punished, in the case that that crime is not attempted, with a penalty of six months to three years imprisonment. In the case that that crime is attempted or perfected, the penalty for the attempted or perfected crimes applies, if higher.

If the group is armed, the penalty is of five to fifteen years imprisonment. A group is deemed armed if the members of the group have access to arms or explosives in order to attain the ends of the group, even if those arms or explosives are hidden or stored.

If the group has ten or more members, the penalties are increased."

Article 26 **(Fraud in public procurement)**

1. In the first paragraph of **article 299**, of the Criminal Code, the words "*with three to twelve months imprisonment and a fine over a hundred lira*" are replaced by the following: "*with one to five years imprisonment and a fine of no less than 10,000 euro.*"

2. In the second paragraph of **article 299**, of the Criminal Code, the words "*with one to five years imprisonment and a fine of no less than five hundred lira*" are replaced by the following: "*with three to seven years imprisonment and with a fine of no less than 20,000 euro.*"

Article 27 **(Circumvention of incapable persons)**

The text of **article 415** of the Criminal Code is entirely replaced by the following:

"Whoever, in order to obtain an undue advantage for himself or for another, induces a person to perform an act whose legal effects are harmful to himself or to another, either by taking advantage of a minor's emotions or inexperience or by taking advantage of that person's illness or psychological weakness, even if that person has not been declared legally incapable or unable, is punished with two to six years imprisonment and with a fine ranging from 1,000 to 10,000 euro."

Article 28
(Corruption in the private sector)

The following **article 419 bis** is added to Book II "Crimes in Particular", Title X "Crimes against Property", Chapter IV "Misappropriation" of the Criminal Code:

"Unless it constitutes a more serious offence, any person who directs or works for a private sector entity who, in the course of his economic, financial or commercial activities, solicits or accepts, on any title, directly or indirectly, an undue advantage for himself or for another in order to perform an act appertaining to his duties, is punished with one to three years imprisonment and with a fine of no less than 5,000 euro.

Unless it constitutes a more serious offence, the same penalty applies to whoever, in the course of economic, financial or commercial activities, promises, offers, or gives on any title, directly or indirectly, an undue advantage to a person who directs or works for a private sector entity with a view that that person performs an act appertaining to his duties.

If the facts foreseen in the preceding paragraph are committed with a view to omit or to delay an act appertaining to his duties, or because such an act has been omitted or delayed, or with a view to perform an act contrary to his duties, or because such an act has been performed, the penalty is increased by between a third and a half."

Article 29
(Receipt of stolen goods)

In **article 421** of the Criminal Code, the words "*outside the case foreseen in article 225*" are replaced by the following: "*outside the cases foreseen in articles 225 and 421 bis.*"

Article 30
(Money laundering and self-laundering)

The following paragraph 1 *bis* is added to **article 421 bis**: of the Criminal Code:

"1 bis. For the purposes of this article, "predicate offence" means any criminal acts punishable, pursuant to the criminal law, with a minimum penalty of six months or more of imprisonment or detention; or with a maximum penalty of one year or more of imprisonment or detention."

Article 31
(Abolition of life imprisonment)

1. For all those offences for which the law foresees a penalty of life imprisonment, that penalty shall be replaced by thirty to thirty-five years imprisonment.

2. Wherever the law prescribes some legal consequence to the penalty of life imprisonment, those consequences shall apply to the penalty referred to in paragraph 1.

Chapter II Amendments to the Code of Criminal Procedure

Article 32 (Seizure by the judicial police)

The text of **article 166, paragraph 1**, of the Code of Criminal Procedure is replaced by the following:

"The officials of the judicial police shall seize the goods used, or intended to be used, to commit the offence, those which are the product of the crime, their profit or value as well as all those which could be useful to ascertain the truth."

Article 33 (Protection of witnesses and victims)

The following **article 256 bis** is added to Book II "On the inquiry", Title II "On the Formal Inquiry", Chapter VI "On the Witnesses" of the Code of Criminal Procedure:

"Whenever during the course of criminal proceedings concerning the offences set forth in this law there is a concrete and present danger for the personal integrity of a potential witness or for the victim of the crime, or for their close relatives, the tribunal, upon request of the person concerned or of his legal representative, and having heard the Promoter of Justice, adopts the necessary measures to ensure his protection."

Article 34 (Arrest warrant)

At the end of **article 313** of the Code of Criminal Procedure, the following words are added: "9°- *in any other case established by law.*"

Article 35 (Due process and presumption of innocence)

The following **article 350 bis** is added to Book III "On the Trial", before Title I "Preliminary Acts" of the Code of Criminal Procedure:

"Every person accused has the right to a trial conducted pursuant to the provisions of the present Code within a reasonable period of time, bearing in mind the complexity of the case, the inquiries to be made, and the evidence to be obtained.

Every person accused is presumed innocent until his guilt has been legally ascertained.»

Article 36 (Seized goods)

The text of **article 612, paragraph 1**, of the Code of Criminal Procedure is replaced by the following:

"The goods referred to in article 166 remain seized as long as such seizure is required by the process; at the end of the proceedings, if those goods are not subject to confiscation, they are returned to whomever is entitled."

Article 37 (Judicial cooperation)

The text of **article 635** of the Code of Criminal Procedure is entirely replaced by the following:

"In matters related to rogatory letters, extradition, the legal effect of foreign convictions and other relations with foreign authorities concerning the administration of criminal justice, ratified International Conventions, international customs and the laws are to be observed. In their defect, the following provisions apply."

Article 38 (Mutual legal assistance)

The text of **article 636** of the Code of Criminal Procedure is entirely replaced by the following:

"The widest possible measure of legal assistance in matters relating to judicial investigations and proceedings is provided to the requesting State, within the limits and conditions set forth by the law.

Mutual legal assistance may be afforded for the following purposes:

- a) taking evidence or statements from persons;*
- b) effecting service of judicial documents;*
- c) executing searches, seizures, and freezes;*

- d) examining objects and sites;*
- e) providing information, evidentiary items and expert evaluations;*
- f) providing originals or certified copies or extracts of relevant documents and records, including public, bank, financial, corporate or business records;*
- g) identifying or tracing proceeds of crime, property, instrumentalities or other goods, for confiscation or for evidentiary purposes;*
- h) facilitating the voluntary appearance of persons in the requesting State;*
- i) any other type of assistance foreseen by the law.*

Within the limits set forth by the laws, the competent authorities of the State may, without a prior request, transmit information relating to criminal matters to a competent authority of a foreign State, through diplomatic channels, whenever they believe that such information could assist the authorities in undertaking or successfully concluding inquiries and criminal proceedings or could provide the basis for a request for mutual legal assistance being formulated by the foreign State.

Copies of government records, documents or information that are available to the general public under law, shall provide to the requesting State.

Whenever the request concerns government records, documents or information that are not available to the general public, complete or partial copies or summaries may be provided in a discretionary manner to the requesting State, within the limits set forth by the law and subject to such conditions as deemed appropriate.

When a foreign State requests the presence of a person who is detained or who is serving a sentence in the territory of the State, for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to acts foreseen as offences by Vatican law, the person may be transferred if:

- a) the person freely gives his informed consent;*
- b) the competent authorities of both States agree, subject to such conditions as they may deem appropriate.*

For the purposes of the preceding paragraph:

a) the foreign State to which the person is transferred shall keep the person transferred in custody, unless otherwise requested or authorized by the State;

b) the foreign State to which the person is transferred shall return the person to the custody of the State Party without delay, as previously agreed;

c) the foreign Party shall not require the State to initiate extradition proceedings for the return of the person;

d) the person transferred is entitled to receive credit for time spent in the custody of the foreign State to be taken into account towards the service of his sentence.

Mutual legal assistance may be provided subject to the condition that the requesting State undertakes not to transmit or to use that information or evidence for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the competent authority of the State, unless such a disclosure was intended to exonerate an accused person."

Article 39 **(Form and execution of the request)**

The text of **article 637** of the Code of Criminal Procedure is entirely replaced by the following:

"Requests for mutual legal assistance shall be communicated in writing to the Secretariat of State or by it, through diplomatic channels, under conditions that allow to establish their authenticity.

Requests for mutual legal assistance shall contain:

a) the identity of the authority making the request;

b) the subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates as well as the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

c) a brief summary of the relevant facts, except for requests whose purpose is the service of judicial documents;

d) a description of the kind of assistance sought as well as details of any particular procedure that the requesting State wishes to be followed;

e) where possible, the identity, location and nationality of any persons concerned;

f) the purpose for which the evidence, information or action is sought.

Requests are ordinarily put forward by the Promoter of Justice and executed by the Tribunal upon request by the Secretariat of State.

When it appears necessary for the execution, or when it may facilitate such execution, additional information may be sought from the requesting State."

Article 40 (Refusal and deferral)

The text of **article 638** of the Code of Criminal Procedure is entirely replaced by the following:

"Mutual legal assistance may be refused if:

a) the request is not made in conformity with the provisions of article 637;

b) it is deemed that execution of the request is likely to prejudice the sovereignty, security, public order or other essential interests of the State or of the Holy See;

c) the relevant facts underlying the proceedings in the requesting State are not foreseen as an offence under Vatican law;

d) if the execution of the request is likely to impair ongoing investigations or criminal proceedings in the State.

The refusal to provide mutual legal assistance shall be motivated.

Where expressly provided for by the ratified international conventions, banking secrecy may not be relied upon to reject a request for mutual legal assistance.

Mutual legal assistance may be deferred whenever granting it would hinder an ongoing investigation, prosecution or judicial proceedings."

Article 41 (Confiscation and seizure)

The text of **article 639** of the Code of Criminal Procedure is entirely replaced by the following:

"A mutual legal assistance request may also be directed at:

a) the confiscation or execution of a confiscation order regarding goods referred to in article 36 of the Criminal Code;

b) identifying or seizing goods referred to in article 36 of the Criminal Code with a view to their eventual confiscation;

c) executing an order for the exhibition or seizure of bank, financial, or commercial records.

In addition to the information required by article 637, the requests for mutual legal assistance referred to in paragraph 1 shall also:

a) describe the goods to be confiscated and expose the facts relied upon by the requesting State such as to enable the requesting State to dictate a confiscation order under the law;

b) in the case of a request for the execution of a confiscation order, transmit an authentic copy of the order, as well as expose the facts and provide the information required for its execution;

c) in the case of a request made for the purposes referred to in paragraph 1, subparagraph b), expose the facts and motives relied upon in the request and provide a detailed description of the requested actions.

Where appropriate, the tribunal orders those measures, including precautionary measures, that are necessary for the execution of the request.

The goods confiscated pursuant to this article are acquired by the Patrimony of the Holy See. However, upon request from the requesting State, the tribunal may order the restitution of the confiscated goods, in whole or in part, with a view to compensate the victims of the offence or to retribute those goods to their legitimate owners."

Article 42 **(Costs of execution)**

The following **article 639 bis** is added to Book IV, "On Execution and Special Proceedings"; Chapter V, "On the Judicial Relations between Italian Authorities and Foreign Authorities"; Section II, "On Rogatories", of the Code of Criminal Procedure:

"The ordinary costs of executing a request of mutual legal assistance shall be borne by the State, unless otherwise agreed with the requesting State. If expenses of a substantial or extraordinary nature are required

to fulfill the request, the request shall be executed in agreement with the requesting State."

Article 43 **(Temporary detention)**

The text of **article 643** of the Code of Criminal Procedure is entirely replaced by the following:

"In order to ensure the presence in the territory of the State for the duration of the proceedings of a person who is alleged to have committed an offence abroad, an arrest warrant may be issued within the limits and conditions set forth by the law.

Upon a request or an offer of extradition, a foreigner may be taken temporarily into custody with a view to ensure his presence in the relevant proceedings, pursuant to article 9, paragraph 4, of the Criminal Code.

Where required by the ratified international conventions, the imposition of the measures foreseen in this article is notified, without delay to:

- a) the State that has requested the extradition;*
- b) the State in whose territory the offence has been committed;*
- c) the State or international organization that has been the target of the offence;*
- d) the State of nationality of the natural or legal person that has been the victim of the offence or, if he is a stateless person, the State where he permanently resides;*
- e) the state of nationality of the alleged offender or, if he is a stateless person, the State where he permanently resides;*
- f) any other interested States."*

Article 44 **(Rights of the foreigner and of the stateless person)**

The following **article 644 bis** is added to Book IV, "On Execution and Special Proceedings"; Chapter V, "On the Judicial Relations between Italian Authorities and Foreign Authorities"; Section III, "On Extradition", of the Code of Criminal Procedure:

"The foreigner or stateless person in custody pursuant to a precautionary measure pursuant to article 643 is entitled to:

a) communicate without delay with the nearest appropriate representative of the State of his nationality, or of the State which is otherwise entitled to communicate with him, or, if he is a stateless person, of the State in whose territory he permanently resides;

b) be visited by a representative of that State;

c) be informed of the rights set forth in subparagraphs a) and b)."

Article 45 **(Limits to the extradition)**

The following **article 650 bis** is added to Book IV, "On Execution and Special Proceedings"; Chapter V, "On the Judicial Relations between Italian Authorities and Foreign Authorities"; Section III, "On Extradition", of the Code of Criminal Procedure:

"The extradited person shall not be subject to any restriction to his personal freedom in execution of a sentence or of a precautionary measure, nor shall be subjected to any other measure involving deprivation of his freedom, for acts committed prior to his surrender other than for those for which the extradition was granted unless: the foreign State expressly consents to it; the person does not leave the territory of the State within forty-five days after his final release, being able to do so; or he has voluntarily returned to the State after having left it."

Chapter III **Concluding provisions**

Article 46 **(Extradition)**

None of the offences referred to in this law shall be deemed a fiscal offence, a political offence, an offence connected with a political offence, or an offence inspired by political motive, for the purposes of refusing an extradition request or legal assistance.

Article 47 **(Abrogation)**

From the moment of entry into force of this law, articles 7, 12 and 33 of the Criminal Code, article 27 of the Decree of 15 September 1951, n. LXVII, on Maritime navigation under the flag of the Vatican City State; and article 1, paragraph 5, of the Law of 30 December 2010, n. CXXVII, *on the Prevention and Countering of the Laundering of the Proceeds of Criminal Activities and*

the Financing of Terrorism, and subsequent amendments and additions, are abrogated.

Article 48
(Entry into force)

This Law shall enter into force on **1 September 2013**.

*The text of this Law has been submitted to the consideration by the Supreme Pontiff on **1 July, 2013**.*

The original of this Law, provided with the State seal, shall be deposited in the Archives of the Laws of the Vatican City State and the relevant text shall be published in the Supplement of the Acta Apostolicae Sedis as well as by affixing it at the Cortile di San Damaso, at the entrance of the offices of the Governorate and at the Post Offices of the State, with the order that all those who are concerned observe it and to ensure its observance.

Vatican City State, **11 July, 2013**,

GIUSEPPE Card. BERTELLO
President

Seen
The Secretary General