



REPUBLIC OF SAN MARINO

DECREE – LAW no. 35 of 15 March 2022

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

Having regard to the conditions of necessity 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 apply the Restrictive Measures of the European Union established by the Decision and the Regulation in question in order to avoid potential financial transactions, by listed subjects, contrary to these restrictive measures and in compliance with the commitments undertaken by the Republic of San Marino with Decree - Law no. 27 of 4 March 2022 "Actions to ensure international peace and security and extraordinary and temporary introduction of the provisional residence permit for the Ukrainian emergency";
- *the urgency of ensuring the timely imposition of the above-mentioned restrictive measures and, therefore, their prompt effectiveness in view of the current Russian-Ukrainian conflict scenario and the threat to international peace and security;*

Having regard to Congress of State Decision no. 9 adopted during its sitting of 14 March 2022;

Having regard to Article 5, paragraph 2 of Constitutional Law no. 185/2005 and to Article 9, paragraph 1, and Article 10, paragraph 2 of Qualified Law no. 186/2005;

Promulgate and order the publication of the following Decree-Law:

RESTRICTIVE MEASURES IMPLEMENTING DECISION 2014/145/CFSP OF THE COUNCIL OF THE EUROPEAN UNION AND SUBSEQUENT AMENDMENTS AND COUNCIL REGULATION (EU) NO. 269/2014 OF 17 MARCH 2014

TITLE I GENERAL PROVISIONS

Art. 1 (Definitions)

1. For the purpose of this decree - law the following definitions shall apply:
 - a) "Annex(es)" shall mean the Annex to Council Decision 2014/145/CFSP of 17 March 2014 entitled "List of persons, entities and bodies referred to in Articles 1 and 2" and subsequent amendments and Annex I to Council Regulation (EU) No 269/2014 of 17 March 2014 entitled "List of natural and legal persons, entities and bodies referred to in Article 2" and subsequent amendments.

- b) "*Contract or Transaction*" shall mean any transaction, regardless of its form, which comprises one or more contracts or similar obligations made between the same or different parties. For this purpose, the term contract shall include any form of guarantee, in particular a financial guarantee or indemnity, and any credit, whether legally independent or not, as well as any related provision arising under, or in connection with, the transaction;
 - c) "*Decision*" shall mean Council Decision 2014/145/CFSP of 17 March 2014 and subsequent amendments concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine
 - d) "*Regulation*" shall mean Council Regulation (EU) No 269/2014 of 17 March 2014 and subsequent amendments concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine;
 - e) "*Claim*" shall mean any claim, whether asserted by legal proceedings or not, made before or after the date of entry into force of this decree - law, under or in connection with a contract or transaction, and includes in particular:
 - i) a claim for performance of any obligation arising under or in connection with a contract or transaction;
 - ii) a claim for extension or payment of a bond, financial guarantee or indemnity of whatever form;
 - iii) a claim for compensation in respect of a contract or transaction;
 - iv) a counterclaim;
 - v) a claim for the recognition or enforcement, including by the procedure of exequatur, of a judgment, an arbitration award or an equivalent decision, wherever made or given.
2. For all terms not defined under paragraph 1, reference shall be made to the definitions and concepts contained in Law No. 57 of 29 March 2019, and subsequent amendments.

Art. 2

(Purpose and scope of application)

1. In compliance with the commitments undertaken by the Republic of San Marino with Decree-Law no. 27 of 4 March 2022, aimed at countering activities that threaten international peace and security, the provisions of this Decree-Law shall be applied in order to promptly implement the restrictive measures of the European Union established by the aforementioned Decision and Regulation.
2. This Decree-Law shall apply:
- a) within the territory of the Republic of San Marino, including its airspace;
 - b) on board any aircraft or any vessel under the San Marino jurisdiction;
 - c) to any San Marino citizen who is inside or outside the territory of the Republic of San Marino;
 - d) to any legal person, entity or body, inside or outside the territory of the Republic of San Marino, which is incorporated or constituted under San Marino law;
 - e) to any legal person, entity or body in respect of any business done, whole or in part, within the Republic of San Marino.

Art. 3

(Committee for Restrictive Measures)

1. The Committee for Restrictive Measures (hereinafter also referred to as "CRM"), referred to in Law no. 57 of 29 March 2019, and subsequent amendments, shall have the power to cooperate, nationally and internationally, also through San Marino Authorities or Police Forces, in order to comply with the provisions of this Decree-Law.

2. The CRM may invite any competent public authority or administration to participate in the meetings and may avail itself of the meetings for the purpose of implementing the provisions of this decree-law.
3. Requests for derogations from the application of restrictive measures may be addressed to the CRM.

TITLE II ENTRY OR TRANSIT BANS

Art. 4 *(Entry or transit ban)*

1. Without prejudice to the provisions currently in force concerning mobility towards the territory of the Republic of San Marino, the entry or transit in the Republic of San Marino of the names listed in the Annex shall be prohibited.
2. The same prohibition shall apply to the natural persons identified in the Annexes for being associated with the names also contained therein.
3. The preceding paragraphs shall not apply to the entry into the territory of San Marino citizens.
4. The prohibitions for the listed names and their associated names shall not apply where San Marino is bound by an obligation under international law, namely:
 - a) as the host country of an international intergovernmental organisation;
 - b) as the host country of an international conference convened by, or under the auspices of, the United Nations;
 - c) as the host country of the Organisation for Security and Cooperation in Europe (OSCE);
 - d) under a multilateral agreement conferring privileges and immunities.
5. The prohibitions on entry and transit for the listed names and their associated names contained in the Annexes shall not apply where the entry or transit is justified by urgent humanitarian reasons, or by the need to attend intergovernmental meetings where a political dialogue, which directly promotes the policy objectives of the restrictive measures, is conducted, including the support for the territorial integrity, sovereignty and independence of Ukraine.
6. In the event of authorisation by the CRM of requests for derogation from the prohibitions referred to in this article, the derogation shall be limited to the purposes for which it is granted to the person concerned.
7. In accordance with the provisions of Articles 11 and 12, the prohibitions provided for in this Article shall no longer apply if the name is removed from the list in the Annex and if it is incorrectly entered.

TITLE III MEASURES TO FREEZE ASSETS OR FUNDS

Art. 5 *(Freezing measures)*

1. All assets or funds belonging to, or owned, held or controlled by natural or legal persons, entities or bodies listed in the Annex shall be frozen.
2. The same measure shall apply to the natural or legal persons, entities or bodies identified in the Annexes as being associated with the names also listed therein.

3. No assets or funds shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies listed in the Annex or natural or legal persons, entities or bodies associated with them and indicated in the Annexes.

4. It shall also be prohibited to allocate goods or funds for the benefit of natural or legal persons, entities or bodies referred to in the preceding paragraphs.

Art. 6

(Derogations from the application of freezing measures)

1. By way of derogation from the provisions of Article 5, the CRM may authorise the release of certain frozen assets or funds or make them available, after having determined that such assets or funds are:

- a) necessary for the basic needs of natural or legal persons, entities or bodies listed in the Annex and dependant family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- b) intended exclusively for payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services;
- c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or assets;
- d) intended for extraordinary expenses.

2. By way of derogation from Article 5, the Judicial Authority may authorise the release of certain frozen assets or funds, or make them available, provided that:

- a) the assets or funds are the subject of an arbitral decision rendered prior to the date of the inclusion of the natural or legal person, entity or body in the Annex, a judicial or administrative decision rendered in San Marino, or an enforceable judicial decision rendered prior to or after that date; and
- b) the assets or funds are used exclusively to satisfy claims secured by said decision or recognised as valid by said decision; and
- c) said decision is not for the benefit of a natural or legal person, entity or body listed in the Annex; and
- d) the recognition of said decision is not contrary to the general principles of Constitutional Order.

3. The prohibitions set out in Article 5 shall not prevent a listed natural or legal person, entity or body from making a payment due under a contract concluded before the date on which that natural or legal person, entity or body has been listed in the Annex, provided that the payment is not, directly or indirectly, received by a natural or legal person, entity or body listed in the Annex.

4. Article 5 shall not prevent the crediting of the frozen accounts by financial institutions that receive funds transferred by third parties to the account of a natural or legal person, entity or body in the list, provided that any such additions to such accounts will also be frozen. The financial institution shall inform the CRM and the Agency about such transactions without delay.

5. The prohibitions set out in Article 5 shall not apply to the addition to frozen accounts of:

- a) interest or other earnings on those accounts;
- b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the measures;
- c) payments due under judicial, administrative or arbitral decisions issued or enforceable in San Marino;

provided that any such interest, other earnings and payments continue to be subject to the measures.

Art. 7

(Exemption from liability)

1. The freezing of funds and assets, or the refusal to make funds or assets available, carried out in good faith and on the basis that such action is in accordance with this Decree-Law, shall not give rise to liability of any kind on the part of the natural or legal person, entity or body implementing it,

or its directors or employees, unless it is proved that the funds and assets were frozen or withheld as a result of negligence.

2. Actions by natural or legal persons, entities or bodies shall not give rise to liability of any kind on their part, if they did not know, had no reasonable ground to suspect, or did not suspect that their actions would infringe the measures set out in this Decree-Law.

Art. 8

(Effects of restrictive measures on contracts and transactions)

1. No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under this Decree-Law, including for purposes of compensation or similar entitlement, notably a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by:

- a) natural or legal persons, entities or bodies listed in the Annex;
- b) any natural or legal person, entity or body acting through or on behalf of one of the persons, entities or bodies referred to in point (a).

2. In any proceedings for the enforcement of a claim, the onus of proving that satisfying the claim is not prohibited by paragraph 1 shall be on the natural or legal person, entity or body seeking the enforcement of that claim.

3. This Article shall be without prejudice to the right of the natural or legal persons, entities and bodies referred to in paragraph 1 to judicial review of the legality of the non-performance of contractual obligations in accordance with this Decree-Law.

Art. 9

(Update to the content of the Decision, the Regulation and their Annexes)

1. The Department of Foreign Affairs and the Agency shall be the focal points on behalf of the Republic of San Marino for updates to the Decision, the Regulation and the Annex.

2. The Department of Foreign Affairs shall inform the Ministry of Foreign Affairs of updates to the content of the Decision and of the Regulation, with a view to the possible adoption by the Congress of State of a specific resolution and related Decree-Law.

3. Upon receipt by the Department of Foreign Affairs of updates to the Annex, such updates shall be deemed to have been transposed automatically and the Annex shall be amended accordingly.

4. The Decision, the Regulation, the Annexes and the subsequent updates shall be published in a special section of the website of the Ministry of Foreign Affairs, as indicated by the CRM.

Art. 10

(Amendments to the Annex to the Decision)

1. The CRM shall not be competent for amendments concerning natural or legal persons, entities or bodies listed in the Annex.

Art. 11

(Revocation of freezing)

1. The freezing measure shall be deemed to be automatically lifted upon the removal of natural or legal persons, entities or bodies from the Annex.

Art. 12

(Incorrect application of freezing)

1. Where a natural or legal person, entity or body included in the Annex has been mistakenly affected by a freezing measure due to homonymy with individuals or entities included in the Annex, they may apply to the CRM to have their assets or funds returned to them in full.

2. The CRM, after verifying the identity of the natural or legal person, entity or body and the fact that it differs from the individual, legal person, entity or body included in the Annex, shall take the necessary measures to ensure that the latter is able to regain full access to its property or funds.

TITLE IV

OBLIGATIONS OF AUTHORITIES, PUBLIC ADMINISTRATIONS AND OBLIGED PARTIES

Art. 13

(Verification and reporting obligations for the Authorities and Public Administrations)

1. The Authorities and the Public Administrations in charge of maintaining the public registers shall verify whether the register they maintain contains assets or funds subject to freezing measures.

2. In case of positive outcome of such verification, the Authorities and the Public Administrations shall immediately enter the freezing of the asset or the fund in the register and shall promptly notify the Agency and the CRM thereof, indicating the data and information in their possession in relation to the frozen assets or funds.

Art. 14

(Verification and reporting obligations for obliged parties)

1. The obliged parties shall verify whether they hold, administer or manage assets or funds subject to freezing measures.

2. In case of positive outcome of such verification, the obliged parties shall immediately notify the Agency and the CRM:

- a) the freezing measures applied, indicating the natural or legal person, the entities or bodies included in the Annex and the amount and nature of the frozen assets or funds;
- b) the transactions, relationships, as well as any other data or information available that relate to the aforementioned subjects or subjects associated with them listed in the Annexes.

TITLE V

COORDINATION PROVISIONS

Art. 15

(Coordination with Law no. 57 of 29 March 2019 and subsequent amendments)

1. For all matters not expressly provided for in this Decree-Law, the provisions on freezing, including the related administrative and criminal sanctions, set forth in Law no. 57 of 29 March 2019, And subsequent amendments, shall apply, unless this Decree-Law, due to its specificity, provides otherwise than the aforementioned Law.

Done at Our Residence, on 15 March 2022/1721 since the Foundation of the Republic.

THE CAPTAINS REGENT
Francesco Mussoni - Giacomo Simoncini

THE MINISTER OF
INTERNAL AFFAIRS
Elena Tonnini