



Implementation of the International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT) by San Marino

San Marino has been a Party to the International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT), hereinafter “the Convention”, since January 2015, following the completion of the domestic parliamentary procedures in November 2014. The decision to join ICSANT, along with other international counter-terrorism instruments, was made by the San Marino Government through Decision n. 10 of 21 February 2012. In 2013, the San Marino Parliament adopted Decree Law n. 83 of 15 July 2013 “Urgent measures of alignment to the global counter-terrorism strategy”, which gives effect to the criminalization requirements of the Convention.

More specifically, the following articles of Decree Law 83/2013 provide for criminalization penalties for the acts described in Art. 2 of the Convention:

“Art. 8

(Acts of nuclear terrorism)

1. Any person who, with the intent to cause death or serious bodily injury or to cause substantial damage to property or to the environment, possesses or makes available to others radioactive material or makes or is otherwise in possession of a radiological or nuclear device shall be punished with sixth degree imprisonment.
2. Any person who, with the intent to cause death or serious bodily injury or to cause substantial damage to property or to the environment, or to compel a natural or juridical person, an international organisation or a State to do or refrain from doing an act, uses in any way radioactive material or a nuclear device or uses or damages a nuclear facility in a manner which releases or risks the release of radioactive material shall be punished with seventh degree imprisonment.



“Art. 9

(Unlawful possession and use of nuclear material)

1. Any person who, without the authorisation of the competent authority, commits an act constituting embezzlement, purchase, receipt, possession, transfer, use, transport, import, export, transformation, alienation or dispersal of nuclear material which is likely to cause death or serious injury to one or more persons or substantial damage to property or environment shall be punished with sixth degree imprisonment.
2. In the event that the acts mentioned in the preceding paragraph cause the death of one or more people, eighth degree imprisonment and fourth degree disqualification shall be applied”

“Art. 11

(Nuclear threat)

1. Any person threatening to use nuclear material to cause death or serious injury to one or more persons or substantial damage to property or to the environment shall be punished with fourth degree imprisonment.
2. Any person threatening to commit an offence described in articles 7, 8, 9 and 10 in order to compel a natural or juridical person, international organisation or State to do or to refrain from doing any act shall be punished by terms of fifth degree imprisonment.
3. Any person committing an act constituting, on factual circumstances, a demand for a nuclear device or facility by threat or use of force, shall be punished with fifth degree imprisonment.”



As for Art. 2, paragraph 3, of the Convention, Art. 26 “Attempted misdemeanour” of the San Marino Criminal Code should also be considered:

“Art. 26

(Attempted misdemeanour)

The uncommitted misdemeanour is punishable as an attempted misdemeanour when the party concerned, with the intention of committing a crime, has undertaken to do so with suitable means without having been able to accomplish the deed.

In this case, the punishment can be reduced by one or two degrees.

An unperformed agreement to commit a crime is not punishable. However, the judge may apply a safety measure.

Unless provided differently by the law, the provision established by the previous subsection also applies in the case of incitements that are disregarded or not performed.”

Moreover, regarding Art. 2, paragraph 4 of the Convention, reference is made to Art. 73 of the Criminal Code “Complicity and collaboration”:

“Art. 73

(Complicity and collaboration)

All those who have in any way taken part in committing a fact envisaged as a misdemeanour are subject to the punishment established for that misdemeanour.

When the fact is an offence and the event has been determined by the interdependent conduct of several persons, each of these persons is subject to the punishment established for that offence.

Depending on the case in question, abettors are responsible for offences by way of complicity or collaboration.”



Furthermore, Article 14 of Decree-Law 83/2013 “International cooperation measures” provides for opportunities to exchange information with other countries on this matter.

“Art. 14

(International cooperation measures)

1. The Republic of San Marino shall cooperate in the prevention of the offences under this Decree-Law:
 - a) by taking all practicable measures to prevent or counter preparations in its territory for the commission within or outside its territory of the offences set forth in this Decree-Law, including measures to prohibit illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or knowingly provide technical assistance or information or engage in the perpetration of those offences;
 - b) by exchanging information upon request and coordinating administrative and other measures taken as appropriate to detect, prevent, suppress and investigate the offences set forth in this Decree-Law and also in order to institute criminal proceedings against persons alleged to have committed those crimes.
2. Provisions in letter b) of paragraph 1 shall not apply when exchange of information would jeopardize the security of the State concerned or the physical protection of nuclear material.
3. The Republic of San Marino shall protect the confidentiality of any information which it receives in confidence from another State by virtue of the provisions of Title III of this Decree-Law. To this end, the Prevention Department, through the Secretariat of State for Foreign Affairs, shall be designated as liaison point responsible for sending and receiving the information.”

Decree Law n 83/2013 is herewith attached in its original Italian version and in its courtesy English translation.