



REPUBLIC OF SAN MARINO

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

Having regard to Article 4 of Constitutional Law n. 185/2005 and to Article 6 of Qualified Law no. 186/2005;

Hereby promulgate and order the publication of the following Ordinary Law, approved by the Great and General Council during its sitting of 22 July 2013:

Law n. 102 of 29 July 2013

CRIMINAL PROVISIONS AGAINST FRAUD AND FALSIFICATION

Art. 1

(Payment instruments)

1. For the purposes of criminal law, payment instrument means an instrument which, by virtue of its specific nature, alone or in association with another payment instrument, enables its holder to transfer or withdraw money or other monetary value.
2. Cash and debt securities shall not be included in the definition referred to in paragraph 1 above.

Art. 2

(Amendment of Art. 204 bis of the Criminal Code)

1. Article 204 bis of the Criminal Code shall be replaced by the following:

"Article 204 bis

(Improper use of payment instruments)

1. Anyone using payment instruments, without being the holder thereof, in order to obtain undue profit for himself or for others, shall be punished by terms of second degree imprisonment and daily fine."

Art. 3

(Amendment of Art. 401 bis of the Criminal Code)

1. Article 401 bis of the Criminal Code shall be replaced by the following:

"Article 401 bis
(Fraud and falsification of payment instruments other than cash)

1. Anyone counterfeiting or altering a payment instrument in order to obtain undue profit for himself or for others, shall be punished by terms of fourth degree imprisonment.
2. The same punishments shall apply to anyone using a counterfeited or altered payment instrument without having taken part in the falsification referred to in paragraph 1 above."

Art. 4
(Transfer of funds through computer fraud)

1. After Article 204 bis of the Criminal Code, the following article is added:

"Article 204 ter
(Computer fraud)

1. Anyone entering, altering, eliminating computer data, or otherwise interfering with the functioning of a computer programme or system, without being authorised thereto, in order to obtain undue profit for himself or for others, shall be punished by terms of second degree imprisonment.
2. Third degree imprisonment shall be applied if computer fraud has caused a considerably serious damage.
3. Fourth degree imprisonment shall be applied if the fraudulent conduct has led to unauthorised transfer of money or values to the detriment of the holder."

Art. 5
(Amendment of Art. 403 of the Criminal Code)

1. Article 403 of the Criminal Code shall be replaced by the following:

"Art. 403
(Manufacturing, possession, purchase, sale of counterfeiting devices or materials)

1. Anyone who fraudulently manufactures, receives, possesses or otherwise obtains, purchases, sells or transfers the following to others shall be punished by terms of second degree imprisonment:
 - devices, items, computer programmes or other means specifically created to commit the offences referred to in Articles 204 bis, 204 ter, 401, 401 bis, 403 bis, or in any case destined, on account of their nature, to counterfeiting or altering;
 - holograms or parts of coins or of payment instruments guaranteeing protection against counterfeiting or altering."

Art. 6
(Amendment of Art. 403 bis of the Criminal Code)

1. Article 403 bis, paragraph 1 of the Criminal Code shall be amended as follows:

"1. Anyone manufacturing banknotes or metal coins by use of legal devices or materials in violation of the rights and conditions under which the competent authorities may issue currency, without these authorities' agreement, shall be punished by terms of fourth degree imprisonment."

Art. 7

(Amendment of Art. 6 of the Criminal Code)

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

“1. Anyone committing, outside the territory of the State, one of the offences referred to in the following articles shall be subject to the provisions of this Criminal Code: 170, 185, 196, 204 bis, 204 ter, 284, 285, 305, 305 bis, 324, 325, 326, 328, 329, 331, 332, 333, 334, 337, 337 bis, 337 ter, 338, 339, 341, 342, 343, 344, 346, 347, 374 ter, 400, 401, 401 bis, 403, 403 bis, 405.”.

Art. 8

(Exchange of information)

1. The Currency Anti-counterfeiting Central Office, established under Law n. 101 of 29 July 2013, shall be the operative focal point for effective exchange of information with other States, and in particular with the competent authorities of those countries, in relation to the offences introduced by and mentioned in this Law.

Art. 9

(Entry into force)

1. This Law shall enter into force on the fifteenth day following that of its legal publication.

Done at Our Residence, on 29 July 2013/1712 since the Foundation of the Republic

THE CAPTAINS REGENT
Antonella Mularoni - Denis Amici

THE MINISTER
OF INTERNAL AFFAIRS
Gian Carlo Venturini