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PROPOSAL

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Subject:	ANNEX 1 to the Proposal for a Council decision on the signing and provisional application of the Agreement between the European Union and the Republic of San Marino on several aspects in the field of border management

Delegations will find attached document COM(2026) 442 annex 1.

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EUROPEAN
COMMISSION

Brussels, 7.9.2026
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ANNEX 1

ANNEX

to the

Proposal for a Council decision

on the signing and provisional application of the Agreement between the European Union and the Republic of San Marino on several aspects in the field of border management

Agreement between the European Union and the Republic of San Marino on several aspects in the field of border management

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PREAMBLE

(1) EMPHASISING that the relationship between the European Union and the Republic of San Marino is founded on shared values and mutual trust.

(2) SEEKING to maintain their specific relations of proximity, while taking into account the particular situation of the Republic of San Marino, as outlined in Declaration 3 on Article 8 of the Treaty on European Union.

(3) RECOGNISING the historical situation of free circulation of persons between the Republic of San Marino and the Italian Republic pre-dating the establishment of the European Union, as stipulated by the Convenzione tra San Marino e l'Italia, signed in Turin on 22 March 1862, and by the Convenzione di amicizia e di buon vicinato fra San Marino e l'Italia, signed in Rome on 31 March 1939, and their protocols and amendments, which has been interpreted and applied as absence of border controls between the two entities according to a long-established practice, as well as the particular geographical situation in the border area between the Republic of San Marino and the Italian Republic;

(4) ACKNOWLEDGING the need to establish specific rules to address the particular geographical situation of the Republic of San Marino and seeking to ensure that persons may cross the borders between the Republic of San Marino and the States applying the Schengen acquis *in full, meanwhile safeguarding and enhancing the internal security of the Republic of San Marino and of the European Union. To this end, compensatory measures should be established enabling a Schengen State to carry out a security assessment on third-country nationals applying for a residence permit in the Republic of San Marino, and police cooperation measures should be established and strengthened between the Republic of San Marino and the Schengen States.*

(5) RECOGNISING the rules applicable to nationals of the Republic of San Marino concerning their exemption from the requirement of being in possession of a visa when crossing the external borders, their exemption from the requirement of holding a valid travel authorisation from the European Travel Information and Authorisation System as well as their exemption from being registered in the Entry/Exit System as already laid down in other legal instruments.[1]

(6) NOTING that, when crossing the external borders of States applying the Schengen acquis *in full, nationals of the Republic of San Marino may use specific lanes, without prejudice to the application of the regime of external border controls of third-country nationals to the nationals of the Republic of San Marino.*[2]

(7) NOTING the rules applicable to nationals of the Principality of Andorra and nationals of the Principality of Monaco concerning their exemption from the requirement of being in possession of a visa

[1] See, in particular, Article 4(1) and Annex II to Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 303, 28.11.2018, p. 39) ('Visa Regulation'); Article 2(2)(g) Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1) ('ETIAS Regulation'); Article 3(3)(f) Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20) ('EES Regulation').

[2] See Council document 13020/04.

when crossing the external borders, their exemption from the requirement of holding a valid travel authorisation from the European Travel Information and Authorisation System as well as their exemption from being registered in the Entry/Exit System as already laid down in other legal instruments.[3]

(8) NOTING that this Agreement is without prejudice to the application of existing or future bilateral agreements or arrangements between Schengen States and the Republic of San Marino relating to cross-border cooperation, provided that such agreements or arrangements are not incompatible with this Agreement and to the extent that they relate to matters in respect of which further cooperation is permitted by the Agreement.

(9) REAFFIRMING their respect for the Council of Europe Convention on Action against Trafficking in Human Beings and the United Nations Convention against Transnational Organized Crime, together with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air.

(10) TAKING INTO ACCOUNT the Protocol on the Schengen acquis *integrated into the framework of the European Union, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, and CONFIRMING that the provisions of this Agreement are not applicable in relation to Ireland.*

(11) TAKING INTO ACCOUNT the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union and CONFIRMING that this Agreement is not binding upon or applicable in relation to Denmark. Nevertheless, since this Agreement builds upon of the Schengen acquis*, if Denmark decides to implement this measure in accordance with Article 4 of that Protocol, it should accede to this Agreement in accordance with the provisions of this Agreement.*

(12) TAKING INTO ACCOUNT the close relationship between the European Union and Norway, Iceland, Switzerland and Liechtenstein, particularly by virtue of the Agreements of 18 May 1999 and 26 October 2004 concerning the association of those countries with the implementation, application and development of the Schengen acquis*, and their participation in the area without controls at internal borders, it is desirable for those States to accede to this Agreement under international law in accordance with the provisions of this Agreement.*

(13) CONSIDERING the importance of data flows for the application of the agreement AFFIRMING the joint commitment of the Parties to ensuring a high level of protection to the processing of any personal data processed pursuant to this Agreement. As regards States applying the Schengen acquis in full that that may accede to this Agreement in accordance with this Agreement, RECALLING the application of Regulation (EU) 2016/679 to Norway, Iceland and Liechtenstein through its incorporation into the EEA Agreement, as well as the application of Directive (EU) 2016/680 to Norway, Iceland, Liechtenstein and Switzerland as part of the Schengen acquis. Also RECALLING that Commission Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland recognises that Switzerland provides an adequate level of protection for personal data transferred from the EU.

HAVE AGREED AS FOLLOWS:

[3] See, in particular, Article 4(1) and Annex II to Visa Regulation; Article 2(2)(g) ETIAS Regulation; Article 2(3)(f) EES Regulation.

PART ONE
INSTITUTIONAL PROVISIONS

TITLE I
GENERAL PROVISIONS

Article 1
Subject matter

1. This Agreement establishes the basis for a relationship on several aspects in the field of border management between the European Union and States which have acceded to this Agreement pursuant to Article 52, of the one part, and the Republic of San Marino, of the other part, in view of the geographical proximity of the Republic of San Marino to, and economic interdependence with the European Union and with the States which have acceded to this Agreement pursuant to Article 52, and in accordance with its specific situation.

2. The Agreement lays down provisions on the absence of border controls on persons, on the operation of the Entry/Exit System (EES)[4] and the European Travel Information and Authorisation System (ETIAS)[5], on security as regards the residence permits issued by the Republic of San Marino to third-country nationals and on other compensatory measures.

3. Nothing in this Agreement shall prevent checks on persons, including in the border area, to be carried out for the purposes of addressing threats to public security or public policy, in particular to combat cross-border crime and illegal immigration.

Article 2
Supplementing agreements

1. Where the European Union or States which have acceded to this Agreement pursuant to Article 52, on the one hand, and the Republic of San Marino, on the other, conclude other agreements between them on matters falling under the scope of this Agreement, such agreements shall constitute supplementing agreements to this Agreement, unless otherwise provided for in those agreements.

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[4] Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20) ('EES Regulation').

[5] Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1) ('ETIAS Regulation').

2. Paragraph 1 also applies to any agreements between the European Union and its Member States, of the one part, and the Republic of San Marino, of the other part, concerning matters falling under the scope of this Agreement.

Article 3
Good faith

1. The Parties shall, in mutual respect and good faith, assist each other in carrying out tasks that flow from this Agreement and any supplementing agreement.

2. They shall take all appropriate measures, to ensure the fulfilment of the obligations arising from this Agreement and from any supplementing agreement, and shall refrain from any measures which could jeopardise the attainment of the objectives of this Agreement or any supplementing agreement.

Article 4
General Principles

1. The Parties shall continue to uphold the shared values and principles of democracy, the rule of law, and respect for human rights, which underpin their domestic and international policies. In that regard, the Parties reaffirm their respect for the Universal Declaration of Human Rights and the international human rights treaties to which they are parties, including the European Convention on Human Rights.

2. This Agreement is without prejudice to the sovereignty, jurisdiction, and territorial integrity of the Republic of San Marino and the Member States of the European Union as well as of the States which have acceded to this Agreement pursuant to Article 52.

Article 5
Personal data protection

In view of the importance of data flows, for the application of this agreement, the Parties' affirm their commitment to ensuring a high level of personal data protection. The Republic of San Marino affirms its commitment to fully respect, on a dynamic alignment basis, the European Union's personal data protection rules, including Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and the interpretation thereof by the Court of Justice of the European Union and relevant acts of the European Data Protection Board.

Article 6
Essential elements

Articles 4 and 5 constitute essential elements of the cooperation established by this Agreement and any supplementing agreement.

TITLE II
PRINCIPLES OF INTERPRETATION AND DEFINITIONS

Article 7
European Union law

To the extent that their application involves concepts of European Union law, the provisions of this Agreement and the legal acts of the European Union to which reference is made in this Agreement shall be interpreted and applied in accordance with the case law of the Court of Justice of the European Union, prior or subsequent to the signature of the Agreement.

Article 8
Private rights

1. Nothing in this Agreement or any supplementing agreement shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties under public international law, nor as permitting this Agreement or any supplementing agreement to be directly invoked in the domestic legal systems of the Parties.

2. A Party shall not provide for a right of action under its law against the other Party on the ground that the other Party has acted in breach of this Agreement or any supplementing agreement.

Article 9
Definitions

For the purposes of this Agreement and of any supplementing agreement, and unless otherwise specified, the following definitions apply:

1) “the Parties” means the European Union and a State which has acceded to this Agreement pursuant to Article 52, on the one hand, and the Republic of San Marino, on the other;
2) "data subject" means an identified or identifiable natural person; an identifiable person being a person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data or an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
3) "day" means a calendar day;

4) "Member State" means a Member State of the European Union;
5) “States applying the Schengen *acquis* in full" means the EU Member States applying the Schengen *acquis* in full under European Union law as well as an EU Member State or non-EU States applying the Schengen *acquis* in full under international law;
6) “Schengen States” means the EU Member States applying the Schengen *acquis* in full under European Union law as well as an EU Member State or non-EU States applying the Schengen *acquis* in full under international law once they have acceded to this Agreement pursuant to Article 52;
7) “personal data” means any information relating to a data subject;
8) “Schengen Borders Code” means Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016[6];
9) “Entry/Exit System” means the Entry/Exit System established by Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017[7];
10) “States operating the Entry/Exit System” means States which operate the Entry/Exit System under Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017;
11) “Border control” means the activity carried out at a border, in accordance with and for the purposes of this agreement, in response exclusively to an intention to cross or the act of crossing that border, regardless of any other consideration, consisting of border checks and border surveillance;
12) “Border checks” means the checks carried out at border crossing points, to ensure that persons, including their means of transport and the objects in their possession, may be authorised to enter the territory of the States applying the Schengen *acquis* in full and the Republic of San Marino or authorised to leave it;
13) “Border surveillance” means the surveillance of borders between border crossing points and the surveillance of border crossing points outside fixed opening hours, including preventative measures, to prevent or detect unauthorised border crossings or the circumvention of border checks, to contribute to raising situational awareness, to counter cross-border criminality and to take measures against persons who have crossed the border illegally;
14) “Joint operations” means law enforcement operations, including joint patrols and other joint operations, in the field of public order, public security and crime prevention, carried out jointly by officers of the

[6] Regulation (EU) 2016/399 of the European Parliament and the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).
[7] Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011.

law enforcement authorities of two or more States, whereby officers from one State operate on the territory of another State;

15) "Union citizen" means any person having the nationality of a Member State;

16) "Third-country national" means any person who is not a Union citizen, a national of the Republic of San Marino, Iceland, Liechtenstein, Norway, Switzerland, Andorra or Monaco, or who is not covered by point 18 of this Article;

17) "Third-country national legally residing in the Republic of San Marino" means a third-country national as defined in point 16 having the legal right to reside in the Republic of San Marino;

18) "Persons enjoying the right of free movement" means:

    a. Union citizens and their family members, irrespective of their nationality, who, enjoy a right to free movement under an Agreement establishing an association between the European Union and its Member States, of the one part, and the Principality of Andorra and the Republic of San Marino, each as a separate Party, of the other part;

    b. Nationals of the Republic of San Marino and their family members, irrespective of their nationality, who, enjoy a right to free movement under an Agreement establishing an association between the European Union and its Member States, of the one part, and the Principality of Andorra and the Republic of San Marino, each as separate Party, of the other part;

    c. Nationals of Iceland, Liechtenstein, Norway, the Principality of Andorra or Switzerland and their family members, irrespective of their nationality, who, under agreements between those countries and the Republic of San Marino, enjoy rights of free movement equivalent to those referred to in points (a) and (b).

19) "Family member" means the persons referred to in Article 2(2) and Article 3(2) of Directive 2004/38/EC[8].

20) "Residence permit" means a document authorising residence in the Republic of San Marino.

[8] Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance), OJ L 158, 30.4.2004.

TITLE III
INSTITUTIONAL FRAMEWORK

Article 10
Joint Committee

1. A Joint Committee is hereby established. It shall be composed of the representatives of the Republic of San Marino and the European Union.

2. The Joint Committee shall be chaired alternately by a representative of the European Commission and a representative of the Republic of San Marino.

3. The Joint Committee shall:

a) ensure the proper functioning and the effective implementation of this Agreement;
b) endeavour to resolve any dispute arising from the interpretation, implementation or application of this Agreement;
c) make recommendations and adopt decisions, where appropriate, and facilitate specific aspects of cooperation based on this Agreement.
d) amend Annex I in order to reflect amendments, replacements or supplements to European Union legal acts listed therein, in the terms referred to in Article 39.
e) advise on any proposal to amend or modify the Agreement, including its Annex.

4. The Joint Committee shall take decisions by consensus. The decisions shall be binding on the Parties, which shall take all the necessary measures to implement them.

5. The Joint Committee shall meet once a year or more often if necessary. It shall also meet at the request of a representative of one of the Parties.

6. Schengen States may attend meetings of the Joint Committee.

7. The Joint Committee shall adopt its rules of procedure.

PART TWO
CIRCULATION OF PERSONS

TITLE I
GENERAL PRINCIPLES AND OBJECTIVES

Article 11
Border checks

1. The Parties shall ensure that persons may cross the borders at any crossing point between the Republic of San Marino and the Schengen States without border checks being carried out, irrespective of their nationality.

2. The provisions of paragraph 1 are without prejudice to Article 12 on checks on persons other than border checks carried out within the territories of the Parties, including in their border areas.

3. In the event that border controls are reintroduced, the Republic of San Marino and the Schengen States shall provide the facilities for checks.

Article 12
Checks within the territory and the border areas between the Republic of San Marino and the Schengen States

1. The absence of border control of persons between the Republic of San Marino and the Schengen States shall not affect the exercise of police or other public powers by the competent authorities of the Schengen States and the competent authorities of the Republic of San Marino in their respective territory, including in their border areas, as conferred on them by national law, insofar as the exercise of those powers does not have an effect equivalent to border checks.

2. The absence of border control of persons between the Republic of San Marino and the Schengen States shall not affect the possibility to provide by law for an obligation to hold or carry papers and documents.

3. The exercise by competent authorities of their powers mentioned in paragraph 1 shall not, in particular, be considered equivalent to the exercise of border checks when the measures fulfil each of the following conditions:

(i) do not have border control as an objective;

(ii) are based on general police information or, where the aim is to contain the spread of an infectious disease, on public health information, and the experience of the competent authorities regarding possible threats to public security or public policy and aim, in particular, to:

- combat cross-border crime,
- reduce illegal immigration, or
- contain the spread of an infectious disease with epidemic potential;

(iii) are devised and executed in a manner that is clearly distinct from systematic checks on persons at borders, including where they are conducted at transport hubs or directly on board of passenger transport services and provided that they are based on a risk assessment.

4. The exercise of powers mentioned in paragraph 1 may include, where appropriate, the use of monitoring and surveillance technologies generally used in the territory for the purposes of addressing threats to public security or public policy.

Article 13
Introduction of border control

1. Notwithstanding Article 11, where there is a serious threat to the public policy, public health or internal security, the Schengen States or the Republic of San Marino, as the case may be, may exceptionally reintroduce border control between the Republic of San Marino and the territory of the Schengen States for a limited period of no longer than 1 month. Where the serious threat to public policy or internal security persists beyond that period, the Party that introduced border control may prolong the border control for renewable periods of up to 6 months.

2. Where any of the Schengen States or the Republic of San Marino decide to reintroduce or prolong border control between the Republic of San Marino and the territory of that Schengen State in accordance with paragraph 1, that Schengen State or the Republic of San Marino shall inform the other Party as well as the European Commission thereof:

a) at the latest four weeks before a planned reintroduction or prolongation or as soon as possible where the circumstances giving rise to the need to reintroduce or prolong border controls become known less than four weeks before a planned reintroduction or prolongation;
b) immediately and not later than 48 hours after a decision to reintroduce or prolong border control in response to a serious threat requiring immediate action to be taken.

3. When informing the other Party of a decision to reintroduce or prolong border control, a Schengen State or the Republic of San Marino reintroducing or prolonging border control shall provide the other Party and the European Commission with the following information:

a) whether the reintroduction or prolongation takes place on the ground of a serious threat to its public policy, public health or internal security;

b) relevant details of the ground or grounds unless there are overriding security or confidentiality reasons for not doing so.
c) the names of the authorised border crossing points;
d) the starting date and duration of the reintroduction or prolongation; and
e) where appropriate, the measures that could be taken by the other Party.

Article 14
European Union databases

Nothing in this Agreement shall be construed as providing a legal basis for the authorities of the Republic of San Marino to have the right of access to information systems and databases established on the basis of European Union law.

Article 15
Calculation of authorised stay

For the purpose of the calculation of the duration of authorised stay in the territory of the Schengen States operating the Entry/Exit System, time spent in the Republic of San Marino by third-country nationals, except those who are legally residing in the Republic of San Marino, shall be deemed to be time spent in the territory of the Schengen States operating the Entry/Exit System and shall be calculated in accordance with Article 6(1) point a) of the Schengen Borders Code.

Article 16
Operational arrangements

1. Operational arrangements shall be concluded between the Republic of San Marino and the Italian Republic setting out the practical arrangements concerning the performance of the duties of the competent authorities and laying down operational aspects relating to the implementation of PART TWO of this Agreement, provided that such arrangements are compatible with this Agreement.

2. Operational arrangements may be concluded between the Republic of San Marino and any of the Schengen States setting out the practical arrangements concerning the performance of the duties of the competent authorities and lay down operational aspects relating to the implementation of Chapter 2 Readmission and return of third-country nationals and Chapter 3 Security of PART TWO of this Agreement, provided that such arrangements are compatible with this Agreement.

TITLE II
SAFEGUARD/COMPENSATORY MEASURES

Article 17
Scope

For the purpose of Chapters 1 and 2 of this Title, references to the Member States shall be understood as references to all Member States except Ireland.

Article 18
Relation with European Union law

This Agreement shall be without prejudice to rights or obligations which persons resident in the Republic of San Marino may have under European Union law.

Article 19
Border control in case of arrivals directly in the territory of the Republic of San Marino from outside the Schengen area

In case a person has entered the territory of the Republic of San Marino directly from outside the Schengen area, without having been subject to border checks pursuant to the Schengen Borders Code, the Republic of San Marino shall immediately notify the Italian Republic.

The Republic of San Marino shall ensure that this person is subject to border control by the authorities of the Italian Republic to be carried out in accordance with the Schengen Borders Code and, if applicable, with Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders.

Chapter 1
ENTRY, STAY AND RESIDENCE – SPECIAL RULES, ISSUANCE OF RESIDENCE PERMITS AND VISAS

Article 20
Right of entry, stay and residence

1. Upon entry into force of an agreement referred to in point 18 of Article 9, that agreement shall govern the entry, stay and residence of persons enjoying the right of free movement and shall prevail over the provisions of this Chapter.

2. In the absence of an agreement as referred to in paragraph 1, Union citizens, and nationals of a non-EU State which has acceded to this Agreement pursuant to Article 52, shall have the right, subject to limitations

justified on grounds of public policy, public security or public health, to enter and stay in the Republic of San Marino for a period of up to 90 days in any 180-day period without a visa, residence permit or equivalent formality on the basis of a valid identity card or passport. Where those persons wish to carry out a paid activity during that period, they may be required by national law to obtain a residence permit or equivalent formality for that purpose.

The right of residence of Union citizens, and nationals of a non-EU State which has acceded to this Agreement pursuant to Article 52, in the Republic of San Marino for periods of more than 90 days in any 180-day period shall be subject to the conditions set out in the law applicable in the Republic of San Marino and shall be evidenced by the issuing of a residence permit by the Republic of San Marino.

3. In the absence of an agreement as referred to in paragraph 1, nationals of the Republic of San Marino shall have the right, subject to limitations on grounds of public policy, public security or public health, to enter and stay in the territory of the Schengen States for a period of up to 90 days in any 180-day period without a visa, residence permit or equivalent formality on the basis of a valid passport. Nationals of the Republic of San Marino wishing to carry out a paid activity during that period may be required by national law to obtain a residence permit or equivalent formality for that purpose.

The right of residence of nationals of the Republic of San Marino in the territory of the Schengen States for periods of more than 90 days in any 180-day period shall be subject to the conditions set out in the law applicable in the Schengen State and shall be evidenced by the issuing of a long-stay visa or residence permit by that State.

Article 21
Visa free travel

1. Third-country nationals legally residing in a Schengen State, may, subject to limitations justified on grounds of public policy, public security or public health, enter and stay in the Republic of San Marino without a visa, on the basis of a valid travel document and a valid residence permit, residence card or long-stay visa issued by that Schengen State, for a maximum period of 90 days in any 180-day period.

2. Third-country nationals legally residing in the Republic of San Marino may, subject to limitations justified on grounds of public policy, public security or public health, enter and stay, without a visa, on the basis of a valid travel document and a valid residence permit issued by the Republic of San Marino, in the territory of Schengen States, for a maximum period of 90 days in any 180-day period.

For entry and stay without a visa for a maximum period of 90 days in any 180-day period in the territory of Member States other than those applying the Schengen *acquis* in full, the authorised period of stay shall be calculated separately for each of these Member States on the basis of stamps affixed in the travel documents or their equivalent.

3. Notwithstanding paragraph 2, each Schengen State, may, in accordance with the requirements laid down in European Union law, decide to impose a visa requirement or an equivalent formality on third-country nationals legally residing in the Republic of San Marino travelling for the purpose of carrying out a paid activity.

Notwithstanding paragraph 1, for persons referred to in that paragraph, the Republic of San Marino may decide to impose a visa requirement or an equivalent formality on these persons travelling for the purposes of carrying out a paid activity.

Article 22
Facilitations at the external borders

1. When crossing the external borders of a Schengen State, no entry or exit stamp shall be affixed to the travel documents of nationals of the Republic of San Marino and third-country nationals legally residing in the Republic of San Marino. Nationals of the Republic of San Marino and third-country nationals legally residing in the Republic of San Marino shall be exempt from the requirements of the Entry/Exit System.

2. When crossing the external borders of a Schengen State, nationals of the Republic of San Marino and third-country nationals legally residing in the Republic of San Marino shall be exempt from the requirement to be in possession of a valid travel authorisation pursuant to Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018.

3. Nationals of the Republic of San Marino shall be able to use the lanes indicated by the sign shown in Part A (´EU, EEA, CH`) of Annex III of the Schengen Borders Code at border crossing points. This is without prejudice to the application of the Schengen Borders Code to the nationals of the Republic of San Marino as third-country nationals as defined in the Schengen Borders Code.

Article 23
Entry in the territory of the Schengen States for transit purposes

1. Third-country nationals legally residing in the Republic of San Marino who do not fulfil all the entry conditions laid down in Article 6(1) of the Schengen Borders Code, but hold a valid residence permit issued by the Republic of San Marino, shall be authorised to enter the territory of the Schengen States for transit purposes so that they may reach the territory of the Republic of San Marino, unless they are subject to an alert on the national list of alerts of the Schengen State whose external borders they are seeking to cross and the alert is accompanied by instructions to refuse entry or transit.

2. The first paragraph shall also apply to persons falling within the scope of Article 9, point 18, who do not fulfil all the entry conditions laid down in Article 6(1) of the Schengen Borders Code, but who hold a valid

residence permit or a valid residence card or can establish a right to have their entry facilitated in accordance with Article 5(4) of Directive 2004/38.

3. Third-country nationals who no longer have the right to reside in the Republic of San Marino and do not fulfil all the entry conditions laid down in Article 6(1) of the Schengen Borders Code shall be authorised to enter the territory of the Schengen States for transit purposes so that they may return to their country of origin, either voluntarily or following an expulsion procedure, when their residence permit has expired or when it has been withdrawn or not renewed in accordance with the procedures of Article 25, or as a result of a national procedure. The detailed procedures for the implementation of this paragraph shall be established in the operational arrangements referred to in Article 16.

Article 24
Right of residence in the Republic of San Marino

1. The right to reside of third-country nationals in the Republic of San Marino shall be established on the basis of a valid residence permit issued by the Republic of San Marino and subject to the conditions set out in this Article and the conditions laid down in the law applicable in the Republic of San Marino.
2. The Republic of San Marino shall ensure that third-country nationals acquire and maintain the right to reside in the Republic of San Marino on the condition of having a genuine connection with the Republic of San Marino. This condition shall be established on the basis of actual and regular physical presence over an appropriate period of time and of other objective and verifiable criteria. The condition of genuine connection shall not be considered fulfilled on the basis of predetermined investments having been made in the Republic of San Marino's economy or real estate or any predetermined financial payments having been made to the authorities of the Republic of San Marino.
3. The Republic of San Marino shall ensure that resident permits are issued only to third-country nationals who meet the conditions for entitlement set out in paragraph 2.
4. Subject to Article 26, the Republic of San Marino shall ensure that residence permits of third-country nationals are issued or renewed only in accordance with the procedure set out in Article 25.
5. Residence permits issued to third-country nationals who no longer meet the conditions in paragraph 2 shall be withdrawn in accordance with national law.

Article 25
Residence permits issued or renewed by the Republic of San Marino

1. The authorities of the Republic of San Marino shall issue or renew residence permits to third-country nationals where the relevant conditions under Article 24 and the law applicable in the Republic of San Marino are fulfilled.

2. The format, security features and the technical specifications of residence permits issued by the Republic of San Marino shall comply with the relevant provisions of Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, and shall bear clear indications that it is valid for the Republic of San Marino, within one year from the entry into force of this agreement.

The Republic of San Marino shall provide the Italian Republic with specimens of residence permits and any subsequent modification thereto for the purpose of the Italian Republic notifying these specimens to the Commission in accordance with Article 39(1)(a) of the Schengen Borders Code.

3. Specimens of residence permits issued by the Republic of San Marino and notified to the European Commission by the Italian Republic in accordance with Article 39(1)(a) of the Schengen Borders Code are subject to provisions of Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas, long-stay visas and residence permits (VIS Regulation).

4. Before issuing or renewing a residence permit to third-country nationals, the Republic of San Marino shall notify the Italian Republic in order to enable the security assessment of the applicant by the Italian Republic, in accordance with the operational arrangements referred to in Article 16. The notification shall include all data available in the application for the residence permit.

5. Where the third-country national applying for a residence permit is considered to be a threat to public policy, internal security, public health or the international relations of any of the Schengen States, including on the basis of an alert issued in the Schengen Information System, the Italian Republic shall inform the authorities of the Republic of San Marino within 14 calendar days of being notified under paragraph 4 of its objection.

In that case, the authorities of the Republic of San Marino shall refrain from issuing or renewing the residence permit and shall inform the applicant of the objection and provide to the applicant the contact details of the competent authorities of the Italian Republic.

Upon request of the applicant, the Italian Republic shall, with due regard to its obligations under national and European Union law, inform the applicant of

a) its objection to the issuing or renewing of a residence permit,
b) the grounds for considering the applicant to be a threat to public policy, internal security, public health or the international relations, accompanied, where appropriate, by the summary of the reasons, and

c) the applicable judicial remedies in accordance with national and European Union law.

6. The Italian Republic may notify the Republic of San Marino that the period of 14 calendar days referred to in paragraph 5 is extended by a maximum of 28 calendar days. The absence of a response or the absence of the notification on the extension by the Italian Republic following the expiry of the 14 calendar days or, in the case of an extension, the expiry of the 42 calendar days, shall be considered as an absence of objection to the application. The Republic of San Marino shall refrain from issuing or renewing a residence permit before the end of that period.

7. The Italian Republic shall carry out checks in particular in national, international and Union databases, including in the Schengen Information System, and EU restrictive measures.

Where the third-country national applying for a residence permit is subject of an alert entered in the Schengen Information System for the purposes of refusing entry or for the purposes of a return, the Italian Republic shall first consult the State applying the Schengen *acquis* in full that issued the alert and shall take into account its reasons for issuing the alert. The alert issuing State shall reply to the consultation request within 10 calendar days. The absence of a reply by that deadline shall mean that the alert issuing State does not object to the granting of the residence permit. If the Italian Republic decides not to request the authorities of the Republic of San Marino to refrain from issuing or renewing the residence permit, despite the objections raised by the Member State that issued the alert, it shall communicate its reasons to that Member State.

8. Where a third-country national holding a residence permit issued by the Republic of San Marino is considered to be a threat to public policy, internal security, public health or the international relations by any of the Schengen States, including on the basis of an alert issued in the Schengen Information System, the Italian Republic shall request the authorities of the Republic of San Marino to withdraw the residence permit.

Upon receiving such a request, the authorities of the Republic of San Marino shall withdraw the residence permit without delay and inform the person concerned of that decision and provide to that person the contact details of the competent autority of the Italian Republic that requested the withdrawal.

In addition, upon request of the person concerned, that Schengen State shall, with due regard to its obligations under national and European Union law, inform the applicant of:

a) its objection to the issuing or renewing of a residence permit,
b) the grounds for considering the applicant to be a threat to public policy, internal security, public health or the international relations, accompanied, where appropriate, by the summary of the reasons, and

c) the applicable judicial remedies in accordance with national and European Union law.

9. If an alert in the Schengen Information System has been issued for the purposes of refusing entry or for the purposes of return for a third-country national holding a residence permit issued by the Republic of San Marino, the Member State that issued the alert shall consult the Italian Republic to assess whether sufficient grounds exist to withdraw the residence permit. Those grounds may include the third-country national being considered a threat to public policy, internal security, public health or the international relations of the Schengen States.

10. Where the Italian Republic does not object to the issuance or the renewal of a residence permit to a third-country national, or does not request its withdrawal, despite the existence of an alert in the Schengen Information System for the purposes of refusing entry or for the purposes of return for the person concerned, the Schengen State that issued the alert shall not be required to delete it.

11. The Republic of San Marino shall notify the Italian Republic about the refusal of the application for a residence permit, the issuance, renewal and the withdrawal of a residence permit of a third-country national within 5 calendar days from the date of the decision of the competent national authority to issue, renew, or withdraw the residence permit. The Republic of San Marino shall also notify the Italian Republic within 5 calendar days from the date of the decision of its competent national authority, about the refusal of an application or the withdrawal of a residence permit of a third-country national where the refusal or the withdrawal is not based on the provisions of this Agreement.

12. Where, pursuant to paragraph 10, a residence permit is issued or renewed to the third-country national concerned, or is not withdrawn despite the existence of an alert in the Schengen Information System for the purpose of refusing entry or return, and a residence permit has been issued for the person concerned, that residence permit shall not give the holder the right to enter the territory of the States applying the Schengen *acquis* in full, except for transit purposes in line with Article 23.

13. The Commission shall inform the Republic of San Marino of the date on which the Visa Information System (VIS) operations start pursuant to Regulation (EU) 2021/1134.

14. Paragraphs 1 to 3 of this Article shall apply to family members of Union citizens or of nationals of Iceland, Liechtenstein, Norway or Switzerland who are third-country nationals accompanying them to or joining them in the Republic of San Marino in the absence of an agreement referred to in paragraph 1 of Article 20. Paragraphs 4 to 13 of this Article shall not apply to the family members referred to in the previous sentence.

Article 26
Transitional rule for residence permits

1. Residence permits issued by the authorities of the Republic of San Marino to third-country nationals prior to the entry into force of this Agreement shall remain valid for a maximum period of two calendar years after the entry into force of this Agreement or until their expiration date, whichever comes first.

2. The Italian Republic shall notify specimens of such residence permits to the Commission in accordance with Article 39(1)(a) of the Schengen Borders Code.

3. Residence permits referred to paragraph 1 may be replaced before their expiration provided they fulfil the conditions set out in Article 25.

4. The authorities of the Republic of San Marino shall inform the Italian Republic of residence permits of third-country nationals in force, including the personal data of the holders of such residence permits at the time of the entry into force of this Agreement. The Italian Republic may carry out checks in the relevant national, international and Union databases, including the Schengen Information System and EU restrictive measures, and may request that the authorities of the Republic of San Marino withdraw these residence permits on grounds of public policy or internal security. Upon receipt of such a request, the authorities of the Republic of San Marino shall withdraw the residence permit.

5. The Republic of San Marino shall notify the Italian Republic about the withdrawal of a residence permit in accordance with paragraph 4 within 5 calendar days from the date of the decision of the competent national authority to issue, renew, or withdraw the residence permit. The Republic of San Marino shall also notify the Italian Republic within 5 calendar days from the date of the decision of the competent national authority to issue, renew, or withdraw the residence permit about the withdrawal of a residence permit where the withdrawal is not based on the provisions of this Agreement.

6. Paragraphs 1 to 3 of this Article shall apply to family members of Union citizens or of nationals of Iceland, Liechtenstein, Norway or Switzerland who are third-country nationals accompanying them to or joining them in the Republic of San Marino in the absence of an agreement referred to in paragraph 1 of Article 20. Paragraphs 4 and 5 of this Article shall not apply to the family members referred to in the previous sentence.

Chapter 2
READMISSION AND RETURN OF THIRD-COUNTRY NATIONALS

Article 27
Responsibility for the return of persons with no right to enter or stay

1. The Republic of San Marino shall readmit all third-country nationals or stateless persons who do not, or who no longer, meet the conditions for entry and stay in the territory of a Schengen State provided it is proven, or may be reasonably assumed, that these persons either hold or, at the time of entry held, a residence permit issued by the Republic of San Marino, even if that permit is no longer valid unless these persons received a residence permit, a visa or an ETIAS travel authorisation from the Schengen State submitting a readmission application during the validity or after the expiry of the residence permit issued by the Republic of San Marino.

2. When the person to be readmitted is in possession of a valid or expired residence permit issued by the Republic of San Marino, no further formalities shall be needed for the readmission of the person.

3. When the person to be readmitted is not in possession of a valid or expired residence permit issued by the Republic of San Marino, the Schengen State shall submit a readmission request. The readmission request shall contain the information on the basis of which it may be reasonably assumed that the person either holds, or, at the time of entry held, a residence permit issued by the Republic of San Marino. The request may be submitted by any means of communication including electronic means. The Republic of San Marino shall respond to the readmission request as soon as possible and no later than twenty-four hours after the request is submitted. If no response is provided within this period, the request shall be deemed to be accepted.

4. The Republic of San Marino shall accept the use of the European travel document for return of illegally staying third-country nationals in the form set out in Regulation (EU) 2016/1953 of the European Parliament and of the Council[9] ("European travel document for return").

[9] Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994 (OJ L 311, 17.11.2016, p. 13).

Chapter 3
SECURITY

Article 28
Cooperating States

For the purposes of this Chapter, “State” means either one of the Schengen States or the Republic of San Marino.

Article 29
Information exchange

1. The competent authorities of the Republic of San Marino and of the Schengen States shall be able, subject to the conditions of their respective national laws, and within the scope of their powers, and to the extent that this is not provided for in this Chapter, to assist each other through the provision of relevant information for the purposes of:

(a) the prevention, investigation or detection of criminal offences; and

(b) safeguarding against, and the prevention of, threats to public safety.

2. For the purposes of this Article:

– “competent authority” means any national police, customs or other authority authorised under national law to carry out activities specified in paragraph 1;

– “criminal offence” means any conduct punishable under the criminal law of the Republic of San Marino or the Schengen State providing or receiving the information.

3. Competent authorities of a Schengen State or of the Republic of San Marino may request information, including information on wanted and missing persons as well as objects, from each other. Information shall be provided upon request, subject to the conditions of the national law which applies to the providing competent authority and within the scope of its powers.

4. Competent authorities of a Schengen State or of the Republic of San Marino may, subject to the conditions of their respective national laws and within the scope of their powers, provide information on their own initiative to each other, where there are objective reasons to believe that such information could be relevant to the receiving State for the purposes of preventing, detecting or investigating criminal offences, in particular if there are objective reasons to believe that an applicant for a residence permit is considered to represent a threat to public security and public order.

5. Information may be requested and provided under the condition that the national law applicable to the providing or receiving competent authority does not require that such requests or the provision be routed through judicial authorities.

6. In urgent cases, the providing competent authority shall respond to a request, or provide information on its own initiative, as soon as possible.

7. Information provided under this Article may not be used for evidential purposes in proceedings before a judicial authority without the prior written consent from the providing competent authority of a Schengen State or of the Republic of San Marino. The providing competent authority of a Schengen State or of the Republic of San Marino, may, subject to the conditions of the national law which applies to it, including, where necessary under national law, through the use of bilateral or multilateral agreements on mutual legal assistance, consent to the information being used for evidential purposes before a judicial authority in the receiving Schengen State or the Republic of San Marino. Equally, where information is provided on its own initiative, the providing competent authority may consent to the information being used for evidential purposes in proceedings before a judicial authority in the receiving Schengen State or the Republic of San Marino, subject to the conditions of the national law which applies to it, including, where necessary under national law, through the use of bilateral or multilateral agreements on mutual legal assistance.

8. The providing competent authority may, under relevant national law, impose conditions on the use of the information provided.

9. A competent authority of a Schengen State or of the Republic of San Marino may provide any type of information it holds, subject to the conditions of the national law applicable to it and within the scope of its powers. This may include information obtained from other sources, only if the onward transfer of that information is permitted in the framework under which it was obtained by the providing competent authority.

10. Information may be provided via Europol's Secure Information Exchange Network Application (SIENA).

Article 30
Criminal records

The Schengen States and the Republic of San Marino shall exchange information on criminal records in accordance with the relevant bilateral agreements and the European Convention on Mutual Assistance in Criminal Matters.

Article 31
Relevant databases

The Republic of San Marino shall ensure that officers of the Schengen States participating in joint operations referred to in Article 35, can use their own devices to consult their own relevant national, Union and international databases during the exercise of these tasks. The Schengen States shall ensure that officers of the Republic of San Marino participating in those joint operations, can use their own devices to consult their own relevant national and international databases during the exercise of these tasks.

Article 32
Cross-border surveillance

1. Cross-border surveillance shall be permitted to take place across land and air borders, and in accordance with the provisions of this Article.

2. For the purpose of this Article, "cross-border surveillance" is the continuation of surveillance by the competent authorities of one of the Schengen States or of the Republic of San Marino, who, as part of a criminal investigation, are keeping under surveillance in their territory a person who is presumed to have participated in a criminal offence**,** or a person under surveillance who may assist in identifying or tracing such a person. The competent authorities of one of the Schengen States or of the Republic of San Marino may request to continue their surveillance in the Republic of San Marino or in the Schengen States, respectively.

3. For the purposes of this Article, “criminal offence” means offences punishable under the laws of the requesting State and of the requested State by deprivation of liberty or under a detention order for a maximum period of at least one year, or by a more severe penalty.

4. The competent authorities of the Schengen States or of the Republic of San Marino, shall reply to the request for cross-border surveillance within 8 hours following the receipt of the request. Where, for particularly urgent reasons, a reply is required within a shorter timeframe, the competent authorities of the Schengen States or of the Republic of San Marino, shall reply, at the latest, when the requesting officers are about to enter the territory of the Schengen States or of the Republic of San Marino, as the case may be. Where no reply has been given within the aforementioned timeframes, the authorisation to continue the cross-border surveillance shall be deemed to have been granted. The authorisation may be withdrawn at any time.

5. The request shall be made in accordance with the procedure laid down in the operational arrangements pursuant to Article 16 and shall be sent to the competent authorities of the Schengen States or of the

Republic of San Marino, as designated in the operational arrangements as the case may be, and empowered to grant or to pass on the requested authorisation.

6. Should the competent authorities of the Schengen States or of the Republic of San Marino decide not to authorise the cross-border surveillance to take place, or decide to withdraw the authorisation given under paragraph 4, they shall provide in writing the reasons as soon as possible and, at request of the other side, take over the surveillance operation.

7. Where, for particularly urgent reasons, prior authorisation cannot be requested from the other State, the competent authorities carrying out the cross-border surveillance shall be authorised to continue beyond the border the surveillance of a person presumed to have committed criminal offences or a person under surveillance who may assist in identifying or tracing such a person provided that the following conditions are met:

(a) the competent authority of the State in whose territory the surveillance is to be continued, shall be notified immediately, during the surveillance, that the border has been crossed; and,

(b) a request for cross-border surveillance submitted in accordance with paragraph 5 and outlining the grounds for crossing the border without prior authorisation shall be submitted immediately.

Surveillance shall cease as soon as the State in whose territory it is taking place so requests, following the notification referred to in (a) or the request referred to in (b) or, where authorisation has not been obtained, five hours after the border was crossed.

8. Cross- border surveillance shall be carried out only under the following conditions:

(a) the officers of the competent authorities carrying out the cross-border surveillance shall comply with the provisions of this Article and with the law of the State in whose territory they are operating and shall obey the instructions of the competent local authorities.

(b) except in the situations outlined in paragraph 7, the officers of the competent authorities shall, during the cross-border surveillance, carry a document certifying that authorisation has been granted.

(c) the officers of the competent authorities carrying out the cross-border surveillance shall at all times be able to prove that they are acting in an official capacity.

(d) the officers of the competent authorities carrying out the cross-border surveillance may carry their service weapons during the surveillance save where specifically otherwise decided by the requested State. Their use shall be prohibited except in cases of legitimate self-defence.

(e) entry into private homes and places not accessible to the public shall be prohibited.

(f) the officers of the competent authorities carrying out the cross-border surveillance may neither challenge nor arrest the person under cross-border surveillance.

(g) all operations shall be the subject of a report to the competent authorities of the State in whose territory they took place. The officers of the competent authorities carrying out the cross-border surveillance may be required to appear in person.

(h) when requested by the competent authorities of the State in whose territory the cross-border surveillance took place, the State from which the surveillance authorities have come shall assist the enquiry subsequent to the operation in which they took part, including judicial proceedings.

Article 33
Hot pursuit

1. The competent authorities of the Italian Republic or of the Republic of San Marino who are pursuing in their territory an individual caught in the act of committing or of participating in a criminal offence shall be authorised to continue pursuit in the territory of the other State without the latter's prior authorisation where, given the particular urgency of the situation, it is not possible to notify the competent authorities of the other State by one of the means provided for in Article 34 prior to entry into that territory or where these authorities are unable to reach the scene in time to take over the pursuit.

The same shall apply where the person being pursued has escaped from provisional custody or while serving a sentence involving deprivation of liberty.

The pursuing officers shall immediately and in any event no later than when they cross the border, contact the competent authorities of the State in whose territory the hot pursuit is to take place. The hot pursuit will cease as soon as the competent authorities of the State in whose territory the pursuit is taking place so requests. At the request of the pursuing officers, the local authorities shall establish the identity of the pursued person or detain the pursued person.

2. For the purposes of this Article, “criminal offence” means offences punishable under the laws of the requesting State and of the requested State by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe penalty. Where a conviction and prison sentence have occurred or a detention order has been made in the territory of the requesting State, the punishment awarded must have been for a period of at least four months.

3. Hot pursuit shall be carried out in accordance with one of the following procedures, defined by the operational arrangements provided for in Article 16:

(a) the pursuing officers shall not have the right to apprehend the pursued person; or

(b) if no request to cease the hot pursuit is made and if the local authorities are unable to intervene quickly enough, the pursuing officers may detain the person pursued until the officers of the competent authorities of the State in whose territory the pursuit is taking place, who must be informed immediately, are able to establish the person's identity or make an arrest.

4. Hot pursuit shall be carried out in accordance with paragraphs 1, 3 and 5 and in one of the following ways as defined by the operational arrangements provided for in Article 16:

(a) in an area or during a period as from the crossing of the border, to be established in the operational arrangements or

(b) without limit in space or time.

5. Hot pursuit shall be carried out only under the following conditions:

(a) the pursuing officers shall comply with the provisions of this Article and with the law of the competent authorities of the State in whose territory they are operating and shall obey the instructions issued by the competent local authorities.

(b) pursuit may be carried out over land borders and in airspace.

(c) entry into private homes and places not accessible to the public shall be prohibited.

(d) the pursuing officers shall be easily identifiable, either by their uniform, by means of an armband or by accessories fitted to their vehicles. The use of civilian clothes combined with the use of unmarked vehicles without the aforementioned identification shall be prohibited. The pursuing officers shall at all times be able to prove that they are acting in an official capacity.

(e) the pursuing officers may carry their service weapons whose use shall be prohibited save in cases of legitimate self-defence.

(f) once the pursued person has been detained as provided for in paragraph 3(b), and is brought before the competent local authorities, that person may only be subjected to a security search. Handcuffs may be used during the transfer and any objects in his possession may be seized.

(g) after a hot pursuit, the pursuing officers shall appear before the competent local authorities of the State in whose territory they were operating and shall report on their mission. At the request of those authorities, they shall remain at their disposal until the circumstances surrounding their action have been sufficiently

clarified; this condition shall apply even where the hot pursuit has not resulted in the arrest of the person pursued.

Article 34
Communication

In accordance with the relevant international agreements and account being taken of local circumstances and technical possibilities, the Italian Republic and the Republic of San Marino shall install communication lines and other direct links to facilitate police and customs cooperation, in particular for the timely transmission of information for the purposes of cross-border surveillance and hot pursuit.

Article 35
Joint operations

1. In order to step up police cooperation, the competent authorities of the Republic of San Marino and of a Schengen State, designated in the operational arrangements referred to in Article 16 may, for the purpose of maintaining public order and security and preventing criminal offences, introduce joint patrols and other joint operations in which designated officers from the one State participate in operations within the territory of the other State.

2. For the purposes of this Article, “criminal offence” means offences punishable under the laws of the requesting State and of the requested State by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe penalty. Where a conviction and prison sentence have occurred or a detention order has been made in the territory of the requesting State, the punishment awarded must have been for a period of at least four months.

3. The Republic of San Marino and a Schengen State may, as a host State, and in compliance with their respective national law, and with the consent of the seconding State, confer executive powers on officers of the seconding State involved in joint operations or, in so far as the law of the host State permits, allow the officers of the seconding State to exercise their executive powers in accordance with the national law of the seconding State. Such executive powers may be exercised only under the guidance and, as a rule, in the presence of officers from the host State. The officers of the seconding State shall be subject to the national law of the host State. The host State shall assume responsibility for their actions.

4. The officers of the seconding State involved in joint operations shall be subject to the instructions given by the competent authorities of the host State.

Article 36
Protection and assistance during joint operation

The competent authorities of the Republic of San Marino and of a Schengen State shall provide each others' officers crossing borders with the same level of protection and assistance in the course of those officers' duties as is granted to their own officers.

Article 37
Cross-border operations

1. During the operations referred to in Articles 32 and 33, officers from a Schengen State operating in the territory of the Republic of San Marino, or officers from the Republic of San Marino operating in the territory of a Schengen State (the "seconding State") shall be regarded as officers of the State in whose territory they are operating (the "host State") with respect to offences committed against them or by them in the host State.

2. Where, in accordance with Articles 32 and 33, officers from a seconding State operate in the territory a host State, the seconding State shall be liable for any damage caused by their officers during their operations in the host State, in accordance with the law of the host State.

3. The host State shall make good damage referred to in paragraph 2, under the conditions applicable to damage caused by its own officers.

4. The seconding State whose officers have caused damage to any person in the territory of a host State shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.

5. Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 4, the host State shall refrain in the case provided for in paragraph 2, from requesting reimbursement of damages it has sustained from the seconding State.

TITLE III
IMPLEMENTATION, APPLICATION AND ENFORCEMENT

Article 38
References to European Union law

1. Unless specifically provided otherwise, all references in this Agreement to European Union law shall be understood as references to European Union law, including as amended or replaced.

2. Where in this Agreement reference is made to European Union legal acts or provisions thereof, such reference shall, where relevant, be understood to include a reference to European Union legal acts or

provisions thereof that, although replaced or superseded by the act referred to, continue to apply in accordance with that act.

3. For the purposes of this Agreement, references to European Union legal acts made applicable by this Agreement shall be understood to include references to the relevant European Union legal acts supplementing or implementing those provisions.

Article 39
European Union legal acts to be implemented by the Republic of San Marino

1. The Republic of San Marino shall implement the European Union legal acts included in Annex I to this Agreement by the deadlines and subject to the adaptations specified in that Annex.

2. Where European Union legal acts included in Annex I are amended or replaced, references to them shall be understood as referring to European Union legal acts as amended or replaced. The Joint Committee shall revise Annex I to this Agreement and align it to any European Union legal act amending, replacing or supplementing the European Union legal acts listed in Annex I as soon as such an European Union legal act is adopted by the European Union. To that end, the European Union shall, as soon as possible after adoption, inform the Republic of San Marino within the Joint Committee of any act amending, replacing or supplementing European Union legal acts of Annex I.

3. Without prejudice to Article 50, in cases where the Joint Committee fails to reach an agreement on the revision of Annex I by aligning to any European Union legal act amending, replacing or supplementing European Union legal acts of this Annex within three months following the adoption of such amending, replacing or supplementing European Union legal acts, each Party may terminate cooperation under this Agreement by written notification through diplomatic channels. This part of the Agreement shall cease to be in force on the first day of the month following the date of notification.

PART THREE
DISPUTE SETTLEMENT AND HORIZONTAL PROVISIONS

Article 40
Disputes

1. Any dispute regarding the interpretation or application of this Agreement shall be resolved by consultations between the Parties, and shall not be referred to any national or international tribunal or third party for settlement, unless the Parties decide otherwise as a result of the consultations.

2. The consultations referred to in paragraph 1 shall be held in the framework of the Joint Committee.

Article 41
Fulfilment of Obligations, Supervision and Enforcement

1. If a Party considers that the other Party has failed to fulfil any obligation under this Agreement, it shall notify the other Party. The Parties shall hold consultations referred to in Article 40 with a view to reaching a mutually acceptable solution. Where the Parties are unable to reach a mutually acceptable solution, the notifying Party may take appropriate measures. For the purpose of this paragraph, ‘appropriate measures may include the suspension or termination of this Agreement.

2. If a Party considers that the other Party has failed to fulfil any of the obligations that are described as essential elements in Article 6, it shall notify the other Party and may take appropriate measures immediately, without the need to hold consultations referred to in Article 40. For the purpose of this paragraph, ‘appropriate measures may include the suspension, in part of in full, of this Agreement.

3. If a Party considers that the other Party has failed to fulfil any of the obligations referred to in Articles 19, 24, 25 and 27, it shall notify the other Party and may suspend the application of Article 10, immediately, without the need to hold consultations referred to in Article 40.

4. 'Appropriate measures' referred to in this Article shall be taken in full respect of international law and shall be proportionate to the failure to implement obligations under this Agreement, in particular the scope and duration of those measures shall be limited to what it is strictly necessary to remedy the situation. Priority must be given to those which least disturb the functioning of this Agreement.

Article 42
Suspension of obligations based on security grounds

1. Notwithstanding Article 50, where a Party considers that it is exposed to a serious and persistent threat to internal security due to the absence of controls between the Schengen States and the Republic of San

Marino, a Party may temporarily suspend the implementation of its obligations in part or in whole under this Agreement.

Before the temporary suspension of the implementation of its obligations under this Agreement, the Union or, where applicable, a State which has acceded pursuant to Article 52, shall consult the Italian Republic, and shall take the opinion of the Italian Republic duly into account.

2. Where a Party intends to suspend its obligations in accordance with paragraph 1, it shall notify the Joint Committee. Such notification shall indicate the period for which that Party intends the temporary suspension of its obligations to apply as well as the scope of the obligations to be suspended. The temporary suspension of the obligations of that Party shall take effect on the eighth day of the notification or on any later date as specified therein. On this basis, the Italian Republic and the Republic of San Marino shall reintroduce border checks between the Union and the Republic of San Marino.

Article 43

Suspension of obligations related to the visa-free status of Union citizens, nationals of a non- EU State which has acceded to this Agreement and the citizens of the Republic of San Marino

A Party may suspend paragraphs 2 and 3 of Article 20, in particular, for reasons of public policy, the protection of national security or the protection of public health, irregular immigration or upon the reintroduction of the visa requirement by the other Party. The decision on suspension shall be notified to the other Parties not later than two months before its planned entry into force. The Party that has suspended the application of paragraphs 2 and 3 of Article 20, shall immediately inform the other Party should the reasons for that suspension cease to exist and shall lift that suspension.

PART FOUR
FINAL PROVISIONS

Article 44
Relationship with other Agreements

This Agreement and any supplementing agreement shall apply without prejudice to any existing and future agreement between the Republic of San Marino on the one part and the Union or Schengen States, on the other part, provided that they are not incompatible with this Agreement.

Article 45
Amendments

1. The Parties may agree, in writing, to amend this Agreement. The amendments shall apply in accordance with Articles 54 and 55.

2. The Joint Committee may amend Annex I to this Agreement in the terms referred to in Article 10.

Article 46
Review of the implementation

1. The Joint Committee shall review the implementation of this Agreement and supplementing agreements and any matters related thereto four years after the entry into force of this Agreement and regularly thereafter. That review shall set out the common assessment of the representatives of the Parties or, in the alternative, the assessment of the representatives of each Party.

2. In case the Republic of San Marino decides to start issuing short-stay or long-stay visas to third-country nationals, the Parties shall jointly review the Agreement.

3. Upon completion of the review in paragraph 1, and without prejudice to Article 50, each Party may decide to terminate this Agreement by written notification through diplomatic channels. This Agreement and any supplementing agreement shall cease to be in force on the first day of the twelfth month following the date of notification.

Article 47
Confidential information

1. Nothing in this Agreement or in any supplementing agreement shall be construed as requiring a Party to make available confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

2. When a Party submits information to the Joint Committee that is considered as confidential under its laws and regulations, the other Party shall treat that information as confidential, unless the submitting Party agrees otherwise.

Article 48
Classified information and sensitive non-classified information

Nothing in this Agreement or in any supplementing agreement shall be construed as requiring a Party to make available classified information.

The Parties shall agree upon handling instructions to ensure the protection of sensitive non classified information exchanged between them.

Article 49
Integral parts of this Agreement

The Annex and footnotes to this Agreement shall form an integral part of this Agreement.

Article 50
Termination

The European Union and the Republic of San Marino may terminate this Agreement by written notification through diplomatic channels. This Agreement and any supplementing agreement shall cease to be in force on the first day of the twelfth month following the date of notification.

Article 51
Territorial application

1. This Agreement shall apply, of the one part, to the territory in which the Treaty on European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in those Treaties, and, of the other part, to the territory of the Republic of San Marino.

2. This Agreement shall also apply to the territory of a State that applies the Schengen *acquis* in full and has acceded to this Agreement in accordance with Article 52.

3. The European Union shall notify the Republic of San Marino, if after the entry into force of this Agreement, in accordance with paragraph 2, it starts to apply in relation to a State that applies the Schengen *acquis* in full and was not previously bound by the Agreement. In such a case, the Agreement shall apply in relation to the State concerned on the first day of the month following receipt of the notification by the Republic of San Marino.

Article 52
Accession to this Agreement by States participating in the Schengen area under international law

1. This Agreement shall be open for accession by any State that applies the Schengen *acquis* in full either in accordance with Protocol 22 on the position of Denmark or on the basis of an agreement providing for its association with the implementation, application and development of the Schengen *acquis* ('Schengen Association Agreement').

2. The instrument of accession shall be deposited with the Depositary.

3. Accession shall take effect on the thirtieth day following the date of deposit of the instrument of accession, unless a different date is specified in the instrument of accession and accepted by the European Union and the Republic of San Marino.

4. Any State acceding to this Agreement shall accept, without reservation, the rights and obligations applicable to States applying the Schengen *acquis* in full, set out in this Agreement. However, the first sentence shall not entail an obligation for an acceding State that is not an EU Member State to apply provisions of Union law referred to in this Agreement or to interpret such provisions of Union law in accordance with the case law of the Court of Justice of the European Union which would not otherwise be applicable to the acceding State pursuant to other agreements concluded by that State with the European Union.

5. Any State which has acceded pursuant to paragraph 1 of this Article may withdraw from this Agreement by written notification to the Depositary. Such withdrawal shall take effect on the first day of the twelfth month following the date of notification. This shall not affect the continued application of the Agreement as between the remaining Parties.

6. In the event of withdrawal pursuant to paragraph 5, and without prejudice to Protocol 22 or the relevant Schengen Association Agreements, as applicable, the Union and the withdrawing State shall agree on appropriate and proportionate measures to be jointly adopted with the view to preserving the effective functioning of this Agreement.

Article 53
Authentic texts

This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

Article 54
Entry into force

1. This Agreement shall enter into force on the first day of the month following that in which the Parties have notified the Depositary that they have completed their respective internal requirements and procedures for establishing their consent to be bound.

2. This Agreement shall be valid indefinitely.

Article 55
Provisional application

1. The European Union, a State which may accede to this Agreement pursuant to Article 52, and the Republic of San Marino may apply this Agreement provisionally, in whole or in part, in accordance with their respective internal procedures and legislation.

2. The provisional application shall begin on the first day of the month following the date on which:

(a) the European Union has notified the Depositary of the completion of the necessary procedures, indicating the parts of this Agreement that shall be provisionally applied; and
(b) the Republic of San Marino has notified the Depositary of the completion of the necessary procedures confirming its agreement to the parts of the Agreement that shall be provisionally applied.
(c) A State which may accede to this Agreement pursuant to Article 52, has notified the Depositary of the completion of the necessary procedures, indicating the parts of this Agreement that shall be provisionally applied.

3. For the purposes of the provisional application of this Agreement, the term 'entry into force of this Agreement' means the date of provisional application. The Joint Committee established under this Agreement may exercise its functions during the provisional application of this Agreement to the extent that these functions are necessary for ensuring the provisional application of this Agreement. Any decisions adopted in the exercise of its functions shall cease to be effective if the provisional application of this Agreement is terminated.

Article 56
Depositary

1. Notifications referred to in Articles 54 and 55 shall be sent to the Treaty Office of the General Secretariat of the Council of the European Union, or its successor, who is the Depositary of this Agreement.

2. The Depositary shall inform the European Union, a State which has acceded to this Agreement pursuant to Article 52, and the Republic of San Marino of the deposit of any instrument of accession pursuant to Article 52 and of any notification made pursuant to Article 55.

ANNEX I

European Union legal acts to be implemented by the Republic of San Marino

- Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157 15.6.2002, p. 1).