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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Jonathan Attard, M.P., Ministru għall-Ġustizzja, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Dicembru 2022.

A BILL introduced by the Honourable Jonathan Attard, M.P., Minister for Justice, and read the First time at the Sitting of the 5th December 2022.

ATT sabiex jemenda l-Kodiċi Kriminali, Kap. 9.

AN ACT to amend the Criminal Code, Cap. 9.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex jemenda l-Kodiċi Kriminali, Kap. 9.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 li jemenda l-Kodiċi Kriminali u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Kodiċi Kriminali, hawn aktar 'il quddiem imsejjaħ "il-Kodiċi". Titolu fil-qosor.
Kap. 9.
2. L-artikolu 190B tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 190B tal-Kodiċi.
 - (a) fit-tifsira "uffiċjal pubbliku" tiegħu, il-kliem "minbarra Malta" għandhom jiġu mħassra; u
 - (b) minnufih wara t-tifsira "uffiċjal nazzjonali" għandu jiġi miżjud dan is-subparagrafu ġdid li ġej:

"(iii) kwalunkwe persuna oħra assenjata u li teżerċita funzjoni ta' servizz pubbliku li tinvolvi l-ġestjoni ta' jew deċiżjonijiet li jikkonċernaw l-interessi finanzjarji tal-Unjoni fi Stati Membri jew pajjiżi terzi;"
3. Fis-subartikolu (2) tal-artikolu 190H tal-Kodiċi, il-kliem "fl-Artikolu 190Ċ(2)(a), (b) u (ċ) u fl-artikolu 190D" għandhom jiġu sostitwiti bil-kliem "fl-artikolu 190Ċ(2)(a), (b), l-artikolu 190D u l-artikolu 190E". Emenda tal-artikolu 190H tal-Kodiċi.
4. L-artikolu 337Ċ tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 337Ċ tal-Kodiċi.
 - (a) fil-paragrafu (l) tas-subartikolu (1) tiegħu, il-kliem "bil-għan li jitwettqu xi atti taħt il-paragrafi (a) sa (j)" għandhom jiġu sostitwiti bil-kliem "bil-għan li jitwettqu kwalunkwe mill-atti fil-paragrafi (a) sa (k)"; u

(b) fil-paragrafu (b) tas-subartikolu (2) tiegħu, il-kliem "imfissra fis-subartikolu (1)(a) sa (j)" għandhom jiġu sostitwiti bil-kliem "imfissra fis-subartikolu (1)(a) sa (k)".

Emenda tal-artikolu 337E tal-Kodiċi.

5. L-artikolu 337E tal-Kodiċi għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) u minnufih wara għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(2) Minkejja s-subartikolu (1), jekk ir-reat jitwettag parzjalment barra minn Malta u li kieku twettaq f'Malta ikkostitwixxa reat li jmur kontra d-dispożizzjonijiet ta' dan is-Sub-titolu, l-istess reat għandu jitqies li twettaq f'Malta".

Emenda tal-artikolu 518 tal-Kodiċi.

6. Fit-tieni proviso għall-artikolu 518 tal-Kodiċi, il-kliem "qiegħda tagħmel it-talba." għandhom jiġu sostitwiti bil-kliem "qiegħda tagħmel it-talba:" u minnufih wara għandu jiġi miżjud dan il-proviso ġdid li ġej:

"Iżda wkoll il-Prosekuturi Delegati Ewropej maħtura skont id-dispożizzjonijiet tar-Regolament tal-Kunsill (UE) 2017/1939 tat-12 ta' Ottubru 2017 li jimplimenta kooperazzjoni msahha dwar l-istabbiliment tal-Uffiċċju tal-Prosekutur Pubbliku Ewropew ("l-UPPE") għandu jkollhom aċċess għall-atti u d-dokumenti tal-qrati tal-ġustizzja kriminali li jaqgħu fil-kompetenza tal-Uffiċċju tal-Prosekutur Pubbliku Ewropew."

Emenda tal-artikolu 546 tal-Kodiċi.

7. Minnufih wara s-subartikolu (4Ċ) tal-artikolu 546 tal-Kodiċi għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(4D) F'kull każ fejn għandu jsir aċċess skont id-dispożizzjonijiet tas-subartikoli (4A) u (4B) u fejn l-Uffiċċju tal-Prosekutur Pubbliku Ewropew huwa kompetenti sabiex jinvestiga, il-Maġistrat li jkun qed imexxi l-aċċess għandu jibgħat ir-rapport, l-informazzjoni jew l-ilment magħmul skont is-subartikolu (4A) lill-Prosekuturi Delegati Ewropej fi zmien tlett (3) ijiem ta' xogħol mill-Maġistrat magħżul skont is-subartikolu (4Ċ)."

Żieda ta' artikolu ġdid fil-Kodiċi.

8. Minnufih wara l-artikolu 628H tal-Kodiċi għandu jiġi miżjud

dan l-artikolu ġdid li ġej:

"Nuqqas ta' 628I. F'konformità mal-Artikolu 25(6) tar-
 qbil bejn l-awtorità tal-Regolament tal-Kunsill (UE) 2017/1939, il-Qorti
 prosekuzzjoni nazzjonali u l-Kriminali għandha tiddeċiedi, fil-każ ta' nuqqas ta' qbil
 Prosekutur Pubbliku Ewropew u l-bejn l-Uffiċċju tal-Prosekutur Pubbliku Ewropew u l-
 Pulizija Eżekuttiva, dwar il-kwistjoni ta' jekk l-imġiba
 Kriminali taqax fil-kamp ta' applikazzjoni tal-Artikolu
 22(2) jew (3) jew l-Artikolu 25(2) jew (3) tal-istess
 Regolament, dwar min huwa kompetenti sabiex
 jinvestiga każ."

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jipprovdi għall-implimentazzjoni xierqa tar-Regolament tal-Kunsill 2017/1939 tat-12 ta' Ottubru 2017 li jimplimenta kooperazzjoni msahħa dwar l-istabbiliment tal-Uffiċċju tal-Prosekutur Pubbliku Ewropew ("l-UPPE"), u għat-traspożizzjoni aħjar tad-Direttiva (UE) 2017/1371 tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Lulju 2017 dwar il-ġlieda kontra l-frodi tal-interessi finanzjarji tal-Unjoni permezz tal-liġi kriminali, u tad-Direttiva 2013/40/UE tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Awwissu 2013 dwar attakki kontra s-sistemi tal-informazzjoni u li tissostitwixxi d-Deċiżjoni Qafas tal-Kunsill 2005/222/ĠAI.

**A BILL
entitled**

AN ACT to amend the Criminal Code, Cap. 9.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

- Short title. **1.** The short title of this Act is the Criminal Code (Amendment) Act, 2023 and this Act shall be read and construed as one with the
- Cap. 9. Criminal Code, hereinafter referred to as "the Code".
- Amendment of article 190B of the Code. **2.** Article 190B of the Code shall be amended as follows:
- (a) in the definition "public officer" thereof, the words "other than Malta" shall be deleted; and
- (b) immediately after the definition "national official" thereof there shall be added the following new sub-paragraph:
- "(iii) any other person assigned and exercising a public service function involving the management of or decisions concerning the Union's financial interests in Member States or third countries;"
- Amendment of article 190H of the Code. **3.** In sub-article (2) of article 190H of the Code, the words "in article 190C(2)(a), (b) and (c) and in article 190D" shall be substituted by the words "in article 190C(2)(a), (b), article 190D and article 190E".
- Amendment of article 337C of the Code. **4.** Article 337C of the Code shall be amended as follows:
- (a) in paragraph (l) of sub-article (1) thereof, the words "for the purpose of committing any of the acts in paragraphs (a) to (j)" shall be substituted by the words "for the purpose of committing any of the acts in paragraphs (a) to (k)"; and

(b) in paragraph (b) of sub-article (2) thereof, the words "defined in sub-article (1)(a) to (j)" shall be substituted by the words "defined in sub-article (1)(a) to (k)".

5. Article 337E of the Code shall be renumbered as sub-article (1) and immediately after there shall be added the following new sub-article: Amendment of article 337E of the Code.

"(2) Notwithstanding sub-article (1), if the offence is committed partially outside Malta and which had it been committed in Malta constituted an offence contrary to the provisions of this Sub-title, said offence shall be deemed to have been committed in Malta".

6. In the second proviso to article 518 of the Code, the words "the requesting authority." shall be substituted by the words "the requesting authority:" and immediately after there shall be added the following new proviso: Amendment of article 518 of the Code.

"Provided further that the European Delegated Prosecutors appointed in accordance with the provisions of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO") shall have access to the acts and documents of the courts of criminal justice that fall within the competence of the European Public Prosecutor's Office."

7. Immediately after sub-article (4C) of article 546 of the Code there shall be added the following new sub-article: Amendment of article 546 of the Code.

"(4D) In every case where an inquest is to be held in accordance with the provisions of sub-articles (4A) and (4B) and where the European Public Prosecutor's Office is competent to investigate, the Magistrate conducting the inquest shall transmit the report, information or complaint made in accordance with sub-article (4A) to the European Delegated Prosecutors within three (3) working days by the Magistrate chosen in accordance with sub-article (4C)."

8. Immediately after article 628H of the Code there shall be Addition of new article to the Code.

added the following new article:

"Disagree-
ment between
the national
prosecution
authority and
the European
Public
Prosecutor.

628I. In accordance with Article 25(6) of Council Regulation (EU) 2017/1939, the Criminal Court shall decide, in the event of a disagreement between the European Public Prosecutor Office and the Executive Police, on the question of whether the criminal conduct falls within the scope of application of Article 22(2) or (3) or Article 25(2) or (3) of the said Regulation, on who is competent to investigate a case."

Objects and Reasons

The objects and reasons of this Bill are to provide for the proper implementation of Council Regulation 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO"), and for the better transposition of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law and of Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA.